

MEETING
STATE OF CALIFORNIA
SECRETARY OF STATE
VOTING SYSTEMS AND PROCEDURES PANEL

SECRETARY OF STATE
1500 11TH STREET
AUDITORIUM
SACRAMENTO, CALIFORNIA

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Shorthand Reporter

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

APPEARANCES

PANEL MEMBERS

Mr. William Wood, Chairperson

Mr. Lee Kercher

Mr. Daniel Gullahorn

Ms. Caren Daniels-Meade

Mr. Brad Clark

STAFF

Mr. Bruce McDannold

Mr. Brad Mello

Mr. Steven Stuart

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1 PROCEEDINGS

2 CHAIRPERSON WOOD: Can everybody please take their
3 seats. I am going to start the meeting now.

4 And as a housekeeping chore, would you please turn
5 off your cellphones and pagers, if you have them, or on
6 silent or vibrate. Thank you.

7 And again, as a housekeeping note, this meeting of
8 the Voting Systems Panel is a public meeting and it is being
9 recorded. And anything that is presented to this meeting
10 will be out in public, so your comments will be transcribed
11 and they can appear on the internet, just so everybody is
12 aware of that.

13 Well, good morning and welcome to the Secretary of
14 State's office and this meeting of the Voting Systems Panel.
15 My name is Bill Wood, I'm Undersecretary of State. And on
16 behalf of Secretary of State Bruce McPherson, I'm going to
17 Chair this meeting which is going to consider several items
18 on the agenda this morning.

19 What I would like to do first is to make a short
20 statement on behalf of Secretary McPherson so that everyone
21 is aware of the direction that he would like to take the
22 certification, review, and approval process for voting
23 systems in the state of California.

24 Secretary McPherson became Secretary of State just
25 over two months ago following a period of extraordinary

1 turmoil in the Secretary of State's office. Secretary
2 McPherson has made it very clear that he is committed to an
3 open, thorough, impartial, and public process for the review
4 of voting system approval applications.

5 What he needs and what he is going to solicit very
6 actively is the best technical, scientific and public
7 information that is available in order that he can make an
8 informed decision. To help the Secretary of State have
9 access to the widest public information and best technical
10 assistance, he's established two advisory groups.

11 The Voting Systems Panel, which is an advisory,
12 information gathering body is here today, and I'm going to
13 introduce the members to you. Brad Clark is the Assistant
14 Secretary of State for Elections. Caren Daniels-Meade is
15 the Director of Public Affairs, I wanted to make sure I got
16 her title correct. Lee Kercher is the Secretary of State's
17 Information Technology Director. And Daniel Gullahorn is
18 the California Chief Deputy State Information Officer.

19 The second advisory group that Secretary McPherson
20 has established is the Technical Assistance Board. It's
21 Chair is David Jefferson of Lawrence Livermore National
22 Laboratories. And the other members at this time include
23 Matt Bishop from the University of California at Davis, Dave
24 Planer from the University of California at Berkeley, and
25 Lorretta Reed.

1 And just as a parenthetical, the Technical
2 Advisory Board will have a charter describing its role and
3 functions so that it produces the best available scientific
4 and technical information for the Secretary of State. And
5 Mr. Jefferson has already begun drafting such a charter.
6 And just to give you some idea of its direction, the purpose
7 of the Technical Advisory Board is going to be to provide
8 authoritative technical advice to the California Secretary
9 of State on any matter concerning computers and
10 communication as they relate to elections and voting
11 systems, and this will include, but not be limited to voting
12 system software, voting systems procedures, security issues,
13 reliability issues or privacy, cryptographic issues,
14 certification procedures, voting system testing, voting
15 system accessibility, election auditing, voter-verified
16 paper trail issues, software authentication and
17 distribution, telecommunications and internet transmission
18 of data, database issues, and recommendations for standards,
19 among others that will probably be included.

20 And in addition, this Technical Advisory Board may
21 add members on the recommendation of the Chair.

22 I want to make very clear on behalf of Secretary
23 McPherson that he is absolutely emphatic that he wants the
24 certification and review process of voting systems to be
25 open, clear, and consistent. Under the prior administration

1 here at the Secretary of State's office, there was gross
2 mismanagement of the financial and management affairs of the
3 Secretary of State. Now, this was documented --

4 (Boos.)

5 CHAIRPERSON WOOD: -- as well as the Elections
6 Systems Commission which is, in fact, auditing the Secretary
7 of State's office right now and will complete its audit in
8 about four months. It will make a report in the fall and
9 that report is likely to also reveal additional
10 mismanagement.

11 Money can be recovered --

12 (Boos.)

13 CHAIRPERSON WOOD: Ladies and Gentlemen, this is a
14 public meeting and we need to have order. We have to have
15 an orderly process here. Everybody will have an opportunity
16 to speak, to make any comments they wish.

17 (Boos.)

18 CHAIRPERSON WOOD: I'm sorry, Ladies and
19 Gentlemen, we're going to have to have some order here so
20 that we can -- Ladies and Gentlemen, we need to be very
21 clear about what the Secretary has stated the policy is
22 going to be as far as voting systems certification in
23 California.

24 Let me be very clear, if the meeting continues so
25 that the public cannot be heard, the meeting will have to be

1 canceled.

2 Again, we need to be very clear, this is why we
3 have an orderly process for speakers to sign up and be
4 heard. If everybody begins shouting the meeting cannot
5 continue in any kind of orderly fashion.

6 Everybody will have an opportunity to be heard.

7 What Secretary McPherson is committed to is to
8 proceeding with a voting system review that is carefully,
9 thoroughly, and it is being done with all deliberate speed.
10 He is going to intense the work in a partnership with the
11 people of California, with elections officials, and experts
12 to ensure that the right to vote can be exercised securely,
13 efficiently, and it's accessible to all that are eligible to
14 vote.

15 To advance the voting system review process,
16 Secretary McPherson for the first time will set the voting
17 system review process in state regulation so that it is
18 transparent, consistent and certain. It was one of his
19 first charges when he took office that there be a review of
20 this process and his recommendation to us and his charge to
21 us is that these regulations be done as soon as possible.
22 These regulations are being prepared now, they will be
23 submitted in 30 days. They will go through a public review
24 process, a public comment process before they are adopted.

25 Finally, for this meeting, there is a very large

1 agenda and many people who wish to comment on the agenda
2 items. Secretary McPherson again wishing to have the
3 maximum amount of public information is going to have a two-
4 week public comment period that will run from today to the
5 close of business on June 30. Any written comments may be
6 submitted to the Secretary of State until the close of
7 business on June 30. And please use the usual process of
8 contacting the Secretary of State's Elections Division for
9 that.

10 Now, since so many people are here and clearly
11 wish to speak today on items on the agenda, there will be a
12 two-minute limit on the speaking for each individual.

13 And then, finally, just to be very clear again,
14 the Secretary is committed to a partnership with the people
15 of California, with vendors, with election officials, to
16 meet the challenging deadlines in federal and state law, and
17 to meet the new opportunities that voting systems may
18 present to us.

19 So with that in mind -- no, we won't take any
20 questions just now. There will be an opportunity if you
21 signed up on a speaking card to speak.

22 We're going to begin with the staff report in the
23 agenda, as it's indicated, and if you all had a chance to
24 take a look at. The first item on the agenda is the Diebold
25 Election Systems.

1 I'm going to ask that the Secretary of State staff
2 present the staff report related to that agenda item.
3 Following that staff report, there may be questions from the
4 Panel. Following any questions from this Panel, there will
5 be an opportunity for the vendor to present any comments.
6 Following those comments, there will be an opportunity for
7 any expert information to be presented on either side. And
8 then we will begin working through the very large stack of
9 cards for public comment on Agenda Item Number 1.

10 So if you wouldn't mind, Mr. McDannold, we'll
11 begin with Agenda Item Number 1 and the staff report,
12 please.

13 MR. MCDANNOLD: Good morning, Chairman Wood and
14 Members of the Panel.

15 The first item or voting system up for
16 consideration this morning was brought forward by Diebold
17 Election Systems. There are several components to this
18 system, the first one being the GEMS Version 1.18.22
19 election management software. The software is used to
20 configure prior to the election, to define the election, to
21 configure the election districts, the contests, the
22 candidates, to define and lay out the ballots for the
23 election.

24 Data is extracted from this system to configure
25 the AccuVote optical scan readers, as well as the TS DRE

1 readers or voting machines. After an election, this
2 software accumulates and tabulates the vote results as they
3 are brought back from those scanners and from the DRE voting
4 machines.

5 This software is an upgrade or an update from the
6 previously certified version, 1.18.19, which was certified
7 in California August 10th of 2004.

8 The key changes between this version of the
9 software and the prior version, in the prior version there
10 was a problem that provisional ballots that had been voted
11 on the TS units could not be opened up and the results of
12 those ballots read until the ballots had actually been
13 accepted within the system. But it's a problem for people
14 who are voting provisionally or are in the wrong precinct
15 where we don't want to accept the full ballot, but only to
16 mark and accept the votes for those contests that were
17 appropriate for the correct precinct for that voter. This
18 new upgraded version of the software now allows the counties
19 to be able to do that or the users could be able to do that.

20 This software also has resolved the problem in the
21 previous version that if you selected a report with a subset
22 of contests of vote results that did not include a
23 jurisdiction-wide contest, those reports would give an
24 incorrect count for the total ballots cast. This version
25 now corrects that problem.

1 There were also several minor bug fixes in this
2 version. In one report, if the wrong parameter was
3 selected, it would just crash the program and it had to be
4 restarted. There was an issue in the prior version that if
5 a contest label included the percent character, it would
6 download incorrectly to the ballot readers. There was an
7 issue in the prior version that, for instance, if a contest
8 or a jurisdiction had over 8,192 precincts, which we have
9 none currently in California, that when you downloaded the
10 election profile, it would download contest IDs incorrectly.
11 There were also several modified features that are not even
12 used in California. So those were the relevant minor bug
13 fixes.

14 This software was tested by Ciber federal testing
15 lab, and we have in our possession a report that indicates
16 that it tested successfully to the 2002 federal voting
17 standards.

18 The second component of this system is the
19 AccuVote-TSx DRE machine, Firmware Version 4.6.2. This was
20 brought forward with the AccuView printer module attached to
21 it.

22 The AccuVote-TSx is a DRE touchscreen voting
23 device designed for use in the actual precincts by the
24 voters. As a DRE machine, it prohibits overvotes. It
25 presents to the voter a summary of their vote choices,

1 allowing them to review and correct, if necessary, before
2 they finalize the vote. It supports all the languages
3 currently required for use in California jurisdictions. For
4 the visually disabled, it offers a high contrast screen and
5 large fonts or an audio mode with a blank screen.

6 Attached to the DRE in this certification is the
7 AccuView printer module, which is Diebold's presentation of
8 a voter-verified paper audit trail. This is a reel-to-reel
9 sequential device, similar to the paper trail that the Panel
10 approved with the Sequoia System previously last January.
11 It attaches to the side of the DRE unit.

12 Once the voter has reviewed their vote choices and
13 accepted them on the DRE machine, it then prints out those
14 vote choices on a paper behind a plastic window so the voter
15 can't actually access or touch them, but they can review
16 their ballot choices and confirm those before the ballot is
17 finalized. The voter can optionally notice in the paper
18 trail that there is a correction and opt to correct that on
19 their ballot at which point that paper trail is marked void
20 and scrolls up, they're returned to the DRE to correct their
21 vote choices before finalizing again. Voters actually have
22 the chance to correct their vote or their ballot twice from
23 that paper trail and the third time it is accepted
24 automatically.

25 The AccuVote-TSx is the unit that was certified

1 conditionally in November 2003 by the Secretary of State.
2 It was decertified in April 2004 after having problems with
3 the March 2004 primary and also failure to receive federal
4 qualification. It's being brought forward again.

5 The principal changes is the AccuVote is now
6 modified. It's been modified to meet the 2002 Federal
7 Voting Systems Standards. There is now support for the new
8 AccuView printer module that's attached. And Diebold has
9 merged the software development for both the TS unit, which
10 is currently certified, and the TSx, so they will now run on
11 the same software, the same firmware, although the TS has
12 not been brought forward at this time for certification with
13 the paper trail as part of the system.

14 The AccuVote-TSx has features for low visual
15 acuity. As I mentioned earlier, it has large text and a
16 high contrast option for the LCD display. There's also a
17 magnifying lens which we will talk about a little bit later
18 and that can be popped over the paper trail on the AccuView
19 printer module to enlarge the font and to make it more
20 easily readable by the voters. For blind voters it features
21 an audio instruction mode with a blank screen. And it
22 should be noted that although it offers audio verification
23 of the ballot, that audio verification does come directly
24 from the DRE, not independently from the AccuView printer
25 module, the voter-verified paper trail attached.

1 For those with physical disabilities, it is
2 capable of curbside voting. But if you remove the tablet to
3 take it out, the AccuVote touchscreen tablet to take it out
4 curbside voting, the paper trail does not go with it. So it
5 cannot record and present the independent votes or an
6 independent paper trail for the voter to verify. Also the
7 AccuVote touchscreen TSx does not offer a sip-and-puff
8 interface at this point.

9 The balance or the remaining components of the
10 system have all been previously certified in California and
11 have been brought forward unchanged from those previous
12 certifications. They include the Key Card Tool Version
13 1.0.1, which was certified in August 2004. This is software
14 that is used, it's PC-based software that is used to program
15 the smart cards that are used to activate and operate the
16 AccuVote-TSx touchscreen. It should be noted that this
17 program will program and set the encryption keys for the
18 supervisor cards and the voter access cards.

19 The TSx now also has an admin card that is used to
20 reach super level features, setting election parameters,
21 programming the machine, erasing it. Those are now
22 controlled by an admin card. This Key Card Tool cannot be
23 used to set the encryption on that admin card.

24 The next component of the system is the Spyrys
25 vote card encoder, Version 1.3.2. This was also certified

1 in August 2004. This is a hand-held device that poll
2 workers can use to insert the voter access card, the voter
3 access smart card, into and configure it for the particular
4 ballot style for that voter. It is limited to eight ballot
5 styles on spyrus, so at this point in California primary
6 elections, polling places would be required to have more
7 than one of those to meet all the ballot styles that they
8 would need.

9 The next component is VC Programmer, Version
10 4.1.11, which was certified in October 2004. Similar to the
11 spyrus vote card encoder, this is a PC-based software
12 program that when hooked up with a smart card reader device
13 can be used to program those same smart cards, the voter
14 access cards. And being PC-based, it's virtually unlimited
15 in the number of ballot styles, so it's more likely to be
16 used and deployed in an early voting situation that offers
17 multiple ballot styles.

18 The next component of the system is the AccuVote-
19 OS optical scan, Version 1.96.4. This was certified August
20 17th, 2004. This is a precinct-based optical ballot scanner
21 -- or with this firmware is a precinct-based optical ballot
22 scanner. It accepts ballots done in any particular
23 orientation, it can be programmed to reject or provide a
24 warning if a ballot is inserted with overvotes. At the
25 conclusion of the election, the results can be transferred

1 back to GEMS for tabulation via the memory card. It also
2 features a built-in modem, so connect it up over the
3 telephone lines, those votes can be transferred to GEMS via
4 modem.

5 The final component is the AccuVote-OS with
6 firmware Version 2.0.12, with AccuFeed ballot feeder. This
7 is basically the same AccuVote hardware with different
8 firmware attached to be used as a central absentee ballot
9 scanner. The AccuFeed ballot feeder is a mechanical device
10 that sits over that ballot reader and then automatically
11 feeds in one at a time a stack of voted ballots for
12 tabulation. The AccuVote in this configuration instead is
13 hooked up directly connected to the GEMS tabulation server
14 so that as each ballot is read its image is validated and
15 its vote results are captured in GEMS.

16 The GEMS version that we're looking at, as I said
17 before, we have the Ciber report from the federal testing
18 authorities. That report has been provided to you in your
19 packets, dated July 2004, indicating that GEMS was tested to
20 the 2002 federal voting systems standards.

21 The AccuVote-TSx with the AccuView, in conjunction
22 with the rest of the system was actually tested by Wylie
23 Laboratories, and in your possession are the testing reports
24 from that laboratory dated May 17th, 2005. And you will
25 note that that report also indicates that the AccuVote-TSx

1 with AccuView was successfully tested to the 2002 voting
2 system standards.

3 The system has been -- GEMS together with the
4 AccuVote-OS units were certified by NASED or qualified by
5 NASED in September 2004 to the 1990 voting systems
6 standards, because some of the components of the systems did
7 not meet the 2002 qualifications. Those NASED numbers are
8 again N-1-06-12-12-003. And then with the central count
9 configuration on the OS, the qualification number is N-1-06-
10 12-12-005.

11 Finally NASED qualified the TSx system together
12 with GEMS on May 16th, 2005, to the 1990 voting systems
13 standards, again because components of the systems have not
14 been tested to the 2002 standards. That qualification
15 number is N-06-12-22-008.

16 State testing on this system was first conducted
17 on March 28th through April 1st in conjunction with the
18 state consultant, Steve Freeman. During that test, we
19 tested and ran a primary election, a general election, and a
20 recall election ballots through the system. That was March
21 28th through April 1st, this year.

22 We also examined the changes that had occurred
23 before or between the current version and the prior version
24 of this system and conducted tests to verify those new
25 features and those modifications.

1 On April 6th of this year, an open house was held
2 where we invited members of the Technical Advisory Board,
3 the disability community, members of the Voting Systems
4 Panel, as well as county election officers to come in, work
5 with the unit, test it, and give us their feedback.

6 During the initial testing, Diebold did not
7 successfully demonstrate the capability of the upload of the
8 modem from the precinct-based AccuVote-OS unit, so they came
9 back on April 11th of this year, met with the staff, and
10 demonstrated that capability with the OS units.

11 Final testing was conducted June 2nd and 3rd to
12 address several other issues that had arisen in the initial
13 testing that I will review in just a moment. During that
14 time, finally we ran a limited primary and general election
15 on the AccuVote-TSx units to confirm their operation.

16 The findings of that testing. The first issue
17 that I want to address came up in the initial testing, and
18 as the state consultant and the staff were examining the TSx
19 units and particularly the paper trail on the AccuFeed, it
20 was noted that when the AccuFeed printed the paper ballot
21 image on the AccuFeed, generated and printed a unique serial
22 number or ID number for each voters' ballot. Concern was
23 raised over that as a possible conflict with our election
24 code, as well as concerns that had been raised at the
25 federal level. That was referred back to the federal

1 testing authorities and after review, Diebold modified their
2 software, resubmitted it for testing and successfully by the
3 federal testing authorities, and it was brought back on that
4 June 2nd and June 3rd day, the modified version of that
5 software, to demonstrate successfully that that ballot ID
6 had been removed from the paper trail image.

7 The second issue that did come up was with the
8 AccuFeed printer module. During state testing we noted
9 several times problems with the take-up reel rolling up or
10 spooling up the paper ballot image on the AccuFeed on the
11 paper trail. When we questioned the Diebold representatives
12 about that at the time, they had indicated that this was a
13 prototype we were testing and not the final version.

14 Concerns were raised over that and our consultant worked to
15 clarify the situation with the federal testing authorities,
16 with NASED, and eventually on June 2nd and June 3rd Diebold
17 came back out with an AccuFeed printer module, and that was
18 the second component of that June testing, and we were able
19 to successfully demonstrate that it was working. Steve was
20 able to verify to his comfort level that the AccuFeed model
21 we were testing on at that point was identical to the
22 AccuFeed that had been actually tested and certified, or
23 tested successfully by the federal testing authorities.

24 Also I should note, as I mentioned before, that
25 the AccuFeed printer module scores the ballot images

1 sequentially, it's a reel-to-reel device, and as each
2 voter's vote is recorded, it's spooled up into the canister,
3 they're in the same order that they were voted on, which
4 raises and has raised concerns by members of the community
5 over protecting the actual anonymity of the voters and not
6 being able to trace the ballot back to the individual
7 voters.

8 Previously, this panel has accepted that again
9 with the Sequoia system, with the qualification that
10 procedures are required or need to be put in place to ensure
11 and protect the anonymity of the voter. Those procedures
12 and those issues have not yet been resolved.

13 The administrator card. Staff also noted, as I
14 mentioned before, the administrator card that gives that
15 super-user power to program and configure the AccuVote-TSx
16 units cannot be programmed currently, or the encryption keys
17 cannot be programmed locally with the software under
18 certification. That can only be at this point programmed by
19 the factory.

20 So staff strongly recommends that as part of the
21 condition of certification in the procedures that there be a
22 requirement that those administrator cards be set by the
23 factory with a unique encryption key to each county and
24 again for each election until Diebold can come forward with
25 a system, and we understand their intention is the next

1 system will address this and allow counties to set their own
2 unique encryption key.

3 During testing it was discovered that there were
4 two reports that double counted write-in votes in what's
5 referred to as a shadow contest, and these are the contests
6 used to capture the crossover votes in California's modified
7 open primary. These reports should not be used
8 consequently, staff believes, in a primary election. And
9 they are the AccuVote-TS write-in summary by race and the
10 AccuVote-TS write-in summary by deck/machine. There are
11 alternative reports available instead for the counties to
12 use.

13 There were also two reports that were found that
14 included erroneously or that mistakenly erroneously included
15 traditional write-in votes in the summary vote tally results
16 off of provisional ballots, even though those ballots had
17 not been finalized or those ballots had been rejected.
18 Those vote counts were still in those reports. Because of
19 this, staff recommends that at this time the TSx should not
20 be certified or approved to be used for provisional voting,
21 that provisional voters still be required in this system to
22 vote on paper ballots.

23 Finally, there was noted that there was a bug on
24 the SOVC report when the option to suppress unreferenced
25 precinct was selected. If this was done, the report would

1 consequently omit candidates from the final report. As a
2 result, again staff recommends that a condition to the
3 certification be that this report cannot be used with the
4 AccuVote-TSx system.

5 With respect to support for accessibility, our
6 testing tested the capability of the system on ballots, as
7 well as the AccuVote-TSx to support English or Spanish and
8 Vietnamese. Those were the tests that we did in terms of
9 language. The AccuVote-TSx in the system was tested by the
10 federal laboratories for all of the languages that are
11 supported or required in California.

12 With respect to blind voters, which has been noted
13 before, the blind voters have the capability to vote audio
14 instruction mode in their native language, if that's
15 programmed into the machine, as well as to blank out the
16 screen for privacy.

17 For visual acuity, the TSx offers a high contrast
18 and an enlarged font image for users of the actual
19 touchscreen interface. We would like to point out that in
20 our testing round in June, that version of the AccuFeed, it
21 was noticed that it's featured with a magnifying lens that
22 can be flipped over to enlarge the font and to make the
23 paper trail more readable. We noticed there were
24 significant issues with glare, making it difficult to read
25 the paper trail, the glare on the lens, as well as the lens

1 did affect and remove or not enlarge or display the last
2 couple lines of that paper trail and possibly some of the
3 characters on the side. So a potential problem with using
4 it is it might require an alternative magnifying lens or
5 some other device.

6 One of the biggest concerns that was raised in our
7 testing particularly by the accessibility community in the
8 open house was the fact that this device is potentially
9 difficult to use by people with physical disabilities and
10 people with manual dexterity issues might need assistance
11 inserting the voter access card, removing the voter access
12 card. There is no sip-and-puff interface with the AccuVote-
13 TSx unit. And again, as I mentioned before, if you remove
14 the tablet from the TSx unit for curbside voting and it's
15 loaded on, when that tablet is returned, those votes that
16 were voted while the unit was away from its stand are not
17 recorded on the paper trail, so it would produce a
18 discrepancy between the votes counted and the votes in the
19 paper trail.

20 Staff recommends at this point that the AccuVote-
21 TSx system, the GEMS 1.18.22 and the remaining components of
22 the system that have been brought forward be certified with
23 the following conditions.

24 First, that the TSx unit cannot be used for
25 provisional voting. Second, that the select unreferenced

1 precinct option cannot be used when generating the SOVC
2 report. And, finally, submission of use procedures that are
3 acceptable to the Secretary of State that address the
4 following:

5 Require that administrative smart cards be issued
6 by the vendor with unique encryption keys for each county
7 for each election. Prohibit use of the erroneous write-in
8 reports in a primary election. Safeguard the anonymity of
9 voters with the paper trail in the AccuFeed. And, finally,
10 address the magnifying lens on the AccuFeed.

11 Are there any questions?

12 CHAIRPERSON WOOD: Members of the Panel?

13 All right. Thank you, Mr. McDannold.

14 Any comments from the vendor?

15 MR. SINGLETON: Good morning. My name is Marvin
16 Singleton with Diebold Election Systems.

17 As the Tech Board suggested, the GEMS 28.22, the
18 AccuVote-TSx, the AccuFeed module and the components are
19 clearly qualified. We've submitted for state certification.
20 We've been coming back for additional state certification to
21 address the components and the issues that have been raised,
22 as you know, in the software and hardware process. As you
23 introduced the project, there might be some issues and we
24 have addressed those and we are looking forward to be back
25 in the next month to test that and work through with the

1 state.

2 With regards to working with other types of
3 reports, we have noted those and we will be working with the
4 customer counties to address those through procedures or
5 other options that are state certified to accomplish any
6 problems we might have there.

7 Thank you.

8 CHAIRPERSON WOOD: Any questions from the Panel
9 for the vendor?

10 PANEL MEMBER DANIELS-MEADE: My understanding is
11 the sip-and-puff does not work with this particular module.
12 Is that something that you're planning to incorporate into
13 the next version?

14 MR. SINGLETON: I cannot say if it's on the next
15 version, I know it's on the product design wish list for the
16 accessibility groups. I can get you an answer specifically
17 where that stands, but it is on the product development
18 list, but it will not be coming back for this next one.

19 CHAIRPERSON WOOD: Thank you.

20 And, as I indicated, I think what we'll do next is
21 ask if there is any expert testimony that might be offered
22 as to Agenda Item Number 1.

23 MR. BERKMAN: I am Jerry Berkman. I am formerly
24 employed by UC Berkeley for 30 years as a computer
25 programmer. I have from the Sands Institute a certification

1 in computer security at the GFEE level.

2 I believe there are a number of security issues
3 that have not been addressed that we're hearing this last
4 year and the security issues raised were not addressed by
5 the Panel. In addition, I think the one password for
6 everybody is just unacceptable. The redactions of the
7 security parts of the -- does everybody know what redaction
8 means? If you look at that handout, I don't know if it's a
9 draft one, the stuff in black. Look right there.

10 The sections on security are blacked out, parts of
11 the sections. That's commonly called security to obscurity.
12 And the security, people say that doesn't work. If you just
13 try to hide your security holes, they are going to find them
14 out anyway.

15 I will save most of my testimony for later.

16 The security of Diebold Election Systems is
17 impossible to verify, the software is proprietary and cannot
18 be examined. The base system. I don't even know if it
19 says anywhere what the base system that we're running on. I
20 believe it's Windows 2000, although I don't know because I
21 don't think it is documented, which is an old and buggy
22 system that I don't think that we should be running this on
23 it.

24 I would like to see that from a security point of
25 view that the systems not include any wireless and IRF or

1 ID, anything that can communicate outside the computer
2 except for a printer and a CD DVD. I'm sure you're all
3 familiar like if you drove up like we did from the Bay Area
4 and you drive through the FastTrak lane. There are all
5 sorts of ways to communicate to a device without actually
6 touching it, and from a security point of view none of those
7 are acceptable. Turning it off doesn't work. Those things
8 must be removed, they must be inspected and removed and none
9 of that technology must be in any device before it can be
10 viewed as secure.

11 Okay. I will save the rest of my testimony for
12 later. Thank you.

13 CHAIRPERSON WOOD: Thank you.

14 (Applause.)

15 MR. CHESSIN: Steve Chessin, President of
16 Californians for Electoral Reform.

17 We support the use of a voter-verified paper
18 trail. And I noticed a discrepancy when the staff reported
19 that people who vote curbside will not have a voter-verified
20 paper record recorded on the system. Not only won't they
21 have one to verify, but there will not be one in the system
22 at all. So when you do the one percent manual recount and
23 check that the paper ballot count total is the same as the
24 electronic ballots, you will have an unresolvable
25 discrepancy. So it needs to be one of the conditions of

1 certification here that this machine cannot be used for
2 curbside voting and that people who vote curbside have to
3 vote on a paper ballot. That's very important.

4 Thank you.

5 (Applause.)

6 CHAIRPERSON WOOD: Thank you.

7 And, again, we're limiting this just for this
8 particular moment to expert testimony. And, again, as the
9 other speakers have done, if you could state your
10 qualifications for the record, that would be very useful.

11 Is there anybody else who would like to offer
12 expert testimony at this time?

13 Yes, sir.

14 MR. HURSI: Good afternoon. My name is Harri
15 Hursi. I come with 20 years, over 20 years of experience,
16 in the telecommunications, database management and computer
17 security. I'm co-founder of a unit which was sold for the
18 class I worked for, Class 4 Watt, so a long experience in
19 that area.

20 I will limit all my comments to the optical scan
21 system complement of this thing only.

22 First of all, I want to make clear that the only
23 information needed to discover the memory vulnerability and
24 develop the exploit, which I'm going to explain later, are
25 based on publicly available information. All the hardware

1 tools used to demonstrate it were commercially available
2 from third parties.

3 The discoverers demonstrate on a county with those
4 kind of machines where discovered without wire access
5 system. So everything was based on publicly available
6 information.

7 The discoveries were demonstrated in the optical
8 scan firmware Version 1.94.Y, however, there has been
9 nothing indicating in the release notes of that version that
10 there has been anything addressing the issues which I'm
11 going to discuss later.

12 Also the features are not resolved of the
13 implementation flaws or software flaws. They are not
14 resolved of departmental design an architecture of the
15 system.

16 Various executable program in the electronic
17 ballot box. The external program is responsible, it's
18 primary responsibility is reporting of the totals of the
19 votes and also of reporting of the overage votes.

20 The ability to take and change the program and
21 replace it with an unauthorized program opens multiple
22 avenues to exploit. First of all, let me explain how the
23 executable program is in the card. There is a precompiled
24 code which is integrated by an integrator built into the
25 optical scan machine's firmware. However, the documentation

1 publicly available has references that also are matching
2 code, executable can be implemented and executed. There is
3 absolutely no security or tamperproofing against change of
4 the program, there is no checks as well, because I changed
5 -- well, if there is, I did not find them when I changed the
6 program. And there are multiple ways, multiple methods to
7 inject your own executable code or change the executable
8 code on the memory card.

9 The implications and the easy exploits of this
10 vulnerability is first of all there is absolutely no way of
11 getting a critical report when an outbox is empty when the
12 voting starts, for the reason being that this executable
13 code which is residing in the outbox itself is responsible
14 for producing that report, and anyone who can replace the
15 program can make that zero report to be zero one, the actual
16 outbox is not empty.

17 These actually enables you to have corrupting data
18 which will corrupt the integrity of the central tabulator in
19 the card and there will be nothing in the paper trail in a
20 big enough election to give you an indication that this kind
21 of code has been inserted to the ballot box. It also opens
22 avenue to have an ability for negative votes which will
23 redistribute the totals of the votes in a compilation in a
24 central tabulator. So it enables you to derail the process
25 in the central tabulator and since the report is not

1 trustworthy there is no indications of that.

2 Also it means that whatever is transferred,
3 whether carrying the card physically or transferred over the
4 phone lines from the precinct-based OS machines to the
5 central tabulator can be different than what is actually in
6 the card. The code and the data in the card can be
7 separated. And, of course, it means that the audit trail
8 which is the line of defense against tampering is not
9 trustworthy and doesn't meet any audit criteria.

10 Testing was done with Version 1.94.Y. However, in
11 this approach, limited insider access was required in order
12 to have a sample of the data in order to execute exploits
13 discovered without any outside information. However, a new
14 feature is added by the implementation in Version 1.96.1
15 seems to indicate that the malicious hacker has another
16 avenue and is less dependent on inside help to carry out the
17 attack. So for that reason, the indication is that the
18 security and the vulnerabilities of the optical scan
19 precinct-based system has grown, not been fixed.

20 Thank you.

21 (Applause.)

22 CHAIRPERSON WOOD: Thank you. We'll now move to
23 public comment.

24 MS. CLARK: You still have expert.

25 CHAIRPERSON WOOD: Oh, I'm sorry.

1 MS. CLARK: Sorry for my garb, but I came up from
2 my deathbed to be here. And I can be considered an expert
3 because I was a computer programmer for 21 years. Basically
4 I worked --

5 PANEL MEMBER DANIELS-MEADE: Please state your
6 name.

7 MS. CLARK: Megan Clark. And I have been for 21
8 years a programmer analyst with both the City and County of
9 San Francisco and the County of Marin. I worked primarily
10 on the criminal justice information system for most of my 21
11 years, and am famous with the user community for being able
12 to translate computer jargon into English.

13 So I am not confused by GEMS or TSx or DLRV or
14 whatever. The devil is really not in the details, the devil
15 is in the big picture. We're not selling stereos here,
16 these are voting machines.

17 Let's go back to credentials. I was a precinct
18 official for several years and I am a democracy junkie. I
19 will fight for the right of the ultimate right wing to vote
20 in any state or the flaky left wing to vote in any state,
21 but I insist that their votes are counted.

22 (Applause.)

23 MS. CLARK: It is trivial -- well, there's always
24 been the history of ballot stuffing. There will be, there
25 always will be and there always has been. There always will

1 be mistakes. Mistakes are going to happen no matter what
2 system you use. But I don't want to make it easy to stuff
3 the ballot and I can tell you that as long as there is
4 proprietary software --

5 (Applause.)

6 MR. CLARK: -- which simply will not happen. This
7 is not the right implementation for turn key systems. This
8 has to be transparent, the code has to be looked at, it has
9 to be managed by county officials, state officials. It's
10 very important. People already feel in some ways they have
11 lost their vote, that their vote doesn't count. Well, this
12 machine is the final nail in the coffin.

13 Back to my main point. As I stated, don't let
14 computer jargon or testing -- it's trivial to pass a test
15 and have software embedded that skews results, trivial. I
16 mean you don't have to be a brain surgeon to do that.

17 And I would suggest that we need voting accuracy
18 before bells and whistles. It's more important for the vote
19 to be accurate than that the vote is speedy or convenient.

20 (Applause.)

21 MS. CLARK: By the way, I am also an elected
22 official, a director of the Board of a public utility and I
23 just faced several angry mobs myself, so I understand that
24 you're not in an enviable position and I'm going to pretend
25 that your minds one way or the other are not made up, that

1 you truly are democracy lovers like I am.

2 And enough said, that's basically it. Thank you.

3 CHAIRPERSON WOOD: Thank you.

4 (Applause.)

5 MS. SORGEN: Hello. Thank you for holding this
6 hearing today. My name is Phoebe Sorgen. I am the
7 initiator and co-author of the nations first municipal
8 resolution addressing the 2004 stolen election.

9 The Secretary of State is required to hold a
10 public hearing to give persons interested an opportunity to
11 express their views for or against the machine or device, in
12 fact, Election Code 19204.

13 The law also requires the Secretary to establish
14 the specifications for and the regulations governing voting
15 machines. As a result of the procedures for approving and
16 certifying voting systems, as a result these procedures were
17 developed and adopted. It is under the requirements of
18 those procedures to authorize by law that this hearing is
19 being held today.

20 Those procedures state the reason for this
21 hearing. The purpose of the hearing shall be to receive
22 testimony and information on proposed systems. Further,
23 opponents of any application may also arrange for witness
24 and expert testimony. Thank you for allowing that. The
25 problem is we were misinformed.

1 I stand here today in protest what we had been
2 informed was a new policy of relegating any informational
3 and expert testimony as public comment and limited to two
4 minutes. Not only was that contrary to state law mandating
5 the Secretary to give persons an opportunity to testify, it
6 was also a violation if it had been held in violation of the
7 procedures themselves.

8 This hearing is not an option, the law requires
9 it. And that same law specifies why the hearing is being
10 held. We tried to arrange witness and expert testimony
11 beyond the arbitrary and unreasonable two-minute rule, but
12 we were refused. That was illegal to tell us that we're
13 going to be limited to two minutes each, and so it affected
14 how we prepared. It was unreasonable under California's
15 open meeting laws.

16 Again thank you for allowing the testimony. Now,
17 we needed advance notice to prepare properly. That new rule
18 was aimed at limiting citizen input in the certification
19 process.

20 The Secretary has a duty to the voters of this
21 state to make sure that our vote is recorded properly,
22 counted, tallied, and reported accurately. We have a direct
23 interest in which voting systems we the people shall use.

24 (Applause.)

25 MS. SORGEN: This important process is not for the

1 sake of the vendors, it's not for the sake of the
2 corporations.

3 (Applause.)

4 MS. SORGEN: I think most people here, even you on
5 the Panel, probably agree that -- actually I read a
6 statistic that 80 percent of Americans agree that
7 corporations have too much control over our lives, let's not
8 let them steal democracy as well.

9 (Applause.)

10 MS. SORGEN: So the process is not for the sake of
11 the corporations that make the voting machines and it's not
12 for the sake of the local elections officials, it's for our
13 sake, we the people. As such, the disinformation about
14 limitation of our input in this process was an affront. We
15 the citizens of this state were told we would be limited
16 under protest to two minutes of comment. The other
17 witnesses and experts have an unfair advantage by knowing
18 that they could have more than two minutes. A vendor or
19 election official has no greater standing than do we the
20 people.

21 (Applause.)

22 MS. SORGEN: The elections officials are our
23 public servants and serve at our pleasure. The vendors have
24 had their self-serving say. This hearing was also intended
25 for we the voters of this state to provide our input.

1 Thank you again for allowing relevant information
2 and expert testimony to be offered today. Again, we needed
3 proper notice. And I suggest that to make up for that that
4 you at least double or triple the weight of the testimony of
5 experts that we have presented, expecting to only be able to
6 speak for two minutes.

7 I sit on the social justice committee of my
8 church, I'm also a peace and justice commissioner for the
9 City of Berkeley. We co-wrote the resolution to restore
10 trust in US elections that was adopted by Berkeley City
11 Council on December 14th by unanimous consent.

12 (Applause.)

13 MS. SORGEN: Evidence since then has convinced me
14 that what we need to save democracy is paper ballots counted
15 and recounted by hand.

16 (Applause.)

17 MS. SORGEN: It worked for decades here, it works
18 in other countries and Canada and in Germany and in France,
19 and it isn't perfect, no system is, but it's the best we
20 have. Of course, we need to have additional options for
21 disabled voters.

22 I quote from the resolution, just selected, I
23 won't bore you with the whole thing, but, whereas, Barbara
24 Lee stated the right to vote and the right to have our votes
25 counted are both fundamental to our democratic system of

1 government. We hold a sacred responsibility to every voter
2 across the nation to ensure that their vote is counted and
3 recorded properly. We cannot and we should not accept flaws
4 in our election process.

5 (Applause.)

6 MS. SORGEN: Whereas, Diane Feinstein wrote, as it
7 became clear in recent elections, inadequate voting
8 mechanisms can be detrimental to the integrity of our
9 electoral process. Whereas, hackers have little trouble
10 casting multiple votes and taking over machine's vote
11 recording mechanisms in a Maryland study.

12 And University of Pennsylvania researcher, Dr.
13 Steven Freeman, interesting his name comes up a lot,
14 demonstrated that deviations between exit poll predictions
15 and vote tallies could not have occurred by chance,
16 concluding that so many people suspect misplay undermines
17 faith in the foundations of democracy.

18 You may read the resolution at
19 ElectionResolution.blogspot.com.

20 If you value your democracy, you will not certify
21 these hackable machines with secret mechanisms that are
22 considered to be proprietary information. You will dump
23 Diebold and Sequoia and all elections systems.

24 (Applause.)

25 MS. SORGEN: And you will also dump all elections

1 systems and software in favor of hand counted paper ballots.

2 (Applause.)

3 MS. SORGEN: Paper ballots hand counted for those
4 voters who are currently able.

5 The machines mechanisms are considered proprietary
6 info by the manufacturing corporations, thus they are secret
7 and not subject to oversight. They benefit no one except
8 the owners of those corporations, the stockholders and the
9 politicians who profit from their largess. Is this a
10 corporatacracy? Please stand up for we the people and
11 democracy.

12 (Applause.)

13 MR. SOPER: Good morning, my name is Jim Soper.

14 Can you hear me now?

15 My name is James Soper. I have been a programmer,
16 software designer, documenter, tester for over 26 years.
17 And at the high point of expertise, I was the senior
18 consultant for Digital Equipment Technical Headquarters in
19 Europe.

20 I want to talk a little bit about the technical
21 problems. One, the GEMS database is easily -- they call it
22 hackable, I don't even call it hacking. I have a joke about
23 Access, Microsoft Access, which by the way in the
24 professional community is considered a joke for a mission
25 critical program. Mission critical means that if this

1 program does not work right, the entire enterprise
2 collapses. If our voting software does not work right,
3 democracy collapses.

4 (Applause.)

5 MR. SOPER: And the GEMS database, as I understand
6 it, actually writes to two databases. The GEMS software
7 writes to two databases. One is what you see through GEMS,
8 the other is a copy, the best way to go in and change the
9 vote. You have to keep the total vote count the same, but
10 you can go in almost like opening up a spreadsheet and just
11 whip the numbers. This has been documented at, for example,
12 www.equalccw.com/deandemo.html. It's just too easy to
13 change votes there.

14 Further problems. These systems use electronic
15 cards, both for administrators and for the voters. These
16 electronic cards can contain computer programs. They can
17 contain computer programs that can change the vote. They
18 can contain computer programs that can stop the machine and
19 then stop people from voting. This is wrong. So that's the
20 important part.

21 Also it is possible in a touchscreen device to
22 program the machine to touch different unused areas of the
23 screen up at the upper left hand corner for a certain
24 pattern to signal the computer to do whatever it has been
25 preprogrammed in it to do. You can do the same thing with

1 the scanner. Somebody can submit a ballot that has a very
2 varied selection. I'm going to vote Nazi Party here and
3 Green Party there and yes on this and no on that, it makes
4 no consistent sense. And that can be preprogrammed to
5 signal the machine to signal the program inside the machine
6 to do something that's been set up.

7 Maybe it was set up by putting in the electronic
8 card. You swap the card, they give you one card and you
9 swap it and put your own in the machine, then you go in and
10 you do the sequence and you start a different program that's
11 going to change how the machine works in favor of the
12 outcome of whoever that person wants to be in favor of.
13 They don't even have to actually cast a ballot because they
14 could set it up so that the ballot is disqualified for
15 overvoting, and they get to put in another ballot. So they
16 don't even lose their chance to vote, they just have an
17 opportunity to signal the machine to do something.

18 The problem is we don't know what's going on
19 inside of the machines.

20 (Applause.)

21 MR. SOPER: I can't get accurate information on
22 what's inside in terms of hardware. There are experts who
23 say that there are wireless devices in the Diebold machines
24 and in some of the other machines. There are some documents
25 they have. I don't know. I can't find it out, everything's

1 blacked out here. I can't see it. And I don't know
2 especially what's going on with the software.

3 And what we need is if you want to have software,
4 it's software that is oblique, that when it's compiled, it's
5 compiled publicly. That means when the source code that is
6 turned into code that the machine can read, that has to be
7 an entire public process that is verifiable and checkable by
8 everybody. And then it has to be public. That software and
9 that object code has to be installed publicly.

10 (Applause.)

11 MR. SOPER: It's not good enough after the fact to
12 say, oh, here's the code. We don't know if that code is
13 what was actually in the machine.

14 (Applause.)

15 MR. SOPER: It has to be compiled and installed
16 publicly. And that's what goes for certification and that's
17 what goes to the voting station.

18 And the same thing, there is a history of these
19 companies installing last minute patches, emergency patches.
20 We don't know what's going on. I don't trust it. And trust
21 is the basis of this entire thing and I don't trust it.

22 If they are going to install a patch, that has to
23 go through the same publicly verifiable sequence. They have
24 to submit the code, the code has to be compiled publicly,
25 the code has to be loaded publicly, or somehow transmitted

1 so we know the exact path of how it's done.

2 These programs are mission critical to democracy
3 and without it democracy collapses. And what is important,
4 and if I may quote Ronald Reagan, Trust, but verify.

5 Thank you very much.

6 (Applause.)

7 CHAIRPERSON WOOD: Thank you. But again before we
8 proceed just a little further, let me give you just a
9 housekeeping sense of things, since we're getting on towards
10 12:00 o'clock. We will continue on till 12:30, we will take
11 a break for one hour for lunch and we will resume at 1:30.
12 So this would be -- you had expert testimony?

13 MS. KIDDER: I will tell you what my credentials
14 are and you can tell me to sit down if I don't.

15 CHAIRPERSON WOOD: Okay.

16 MS. KIDDER: I am and legally I guess disabled and
17 physically and more relevantly learning disabled. And I do
18 not represent any organization, any disabled persons'
19 organization as such.

20 PANEL MEMBER DANIELS-MEADE: Can you identify
21 yourself, please?

22 MS. KIDDER: My name is Jennifer Kidder.

23 PANEL MEMBER DANIELS-MEADE: Thank you.

24 MS. KIDDER: And I know that I work with people on
25 my side on this issue who do not even understand my point of

1 view, and so I just wanted to tell you from a learning
2 disabled person's point of view, I know that there are
3 disabled groups who feel one way about the voting machine
4 issue. And in general as voting machines go, as a disabled
5 person I know that there are some things that I cannot do
6 the way other people do them without assistance. I had to
7 learn that when I was a student at Berkeley. And I don't
8 like it, it's very hard to come to grips with. But I found
9 that I would rather do things with assistance than not be
10 able to do them. And I feel that I would rather have my
11 vote counted and have to vote in a way that other people do
12 not vote and to have my vote counted and just the experience
13 voting the way that other people experience voting with none
14 of us having our votes counted.

15 So I just wanted to say that, for instance, since
16 these computers have been integrated into poll places, I
17 have not had a secret ballot because I have great difficulty
18 understanding computers and I need communication with a
19 human being in order to understand what it is that I'm
20 doing. I have difficulty reading, I have dyslexia, and
21 computers are particularly difficult for me.

22 So I don't mind not having a secret ballot, I mean
23 it bothers me a little bit, but I always have to ask the
24 assistants how do you work this machine and get this thing
25 to record what I intend for it to vote. So it does not

1 necessarily ensure a secret ballot. And even if it works
2 properly, which I don't believe it does, even if it works
3 properly for people who have difficulty with computers, it
4 still does not ensure a secret ballot as much as writing on
5 paper does for me, in that way I am able to do it. And I
6 understand that other people are not able to do it without
7 assistance, and I don't knock them, they have their opinion
8 and I want you to be fair to mine.

9 Thank you.

10 (Applause.)

11 MR. BAYER: Good afternoon, Gentlemen. I'm David
12 Bayer. I worked at USAID for nine years and did a little
13 bit on computer security.

14 The last time I addressed this Board was in 2004
15 in April as a representative for LULAC. And I was
16 responsible for two resolutions, the safe resolution and the
17 contrary resolution in LULAC calling for paper ballots. The
18 problem is with paper ballots.

19 What we're dealing with today are two concepts,
20 disenfranchisement versus democracy.

21 (Applause.)

22 MR. BAYER: If you are now on the side of
23 electronic voting, you're on the side of disenfranchisement.

24 I have a problem with Mr. Clark. You were
25 formerly the Registrar of Voters in Alameda County; is that

1 correct?

2 CHAIRPERSON WOOD: Well, excuse me, sir, what
3 we're going to do -- I don't want to get into any kind of
4 personal issues.

5 MR. BAYER: No, it's not personal, this has to do
6 with conflict and it's very relevant.

7 Mr. Clark purchased \$12 million worth of Diebold
8 machinery while he was registrar.

9 I believe that it would be correct and honorable,
10 sir, if you would recuse yourself from this Panel.

11 (Applause.)

12 MR. BAYER: I mean that sincerely, you should
13 recuse yourself and the Secretary of State should ask you to
14 resign from the Panel.

15 Now, Diebold has no place in our election system
16 anymore.

17 (Applause.)

18 MR. BAYER: We have information, first of all,
19 that electronic voting has no confidence by the public. In
20 a field poll in October of 2004, two-thirds of the people
21 said they rejected electronic voting. In a CBS/New York
22 Times poll in November of 2004, two-thirds of the people
23 said they rejected electronic voting. They do not have
24 confidence in electronic voting. And their feelings of
25 distrust were certainly supported by the results.

1 Let's look at what happened in 2004. In 2004,
2 there was a 5.5 discrepancy between the exit polls and the
3 final result, the largest discrepancy in the history of the
4 polls in all elections in the United States.

5 (Applause.)

6 MR. BAYER: More than 80 percent of the vote in
7 the United States was realized on electronic voting
8 machines, and I don't care if you're going to talk to me
9 about paperless voting machines or if you're going to talk
10 to me about ES&S scan machines, it doesn't make any
11 difference, they're electronic voting machines and they are
12 not secure.

13 Now, it turns out in that presidential election
14 Kerry had a three percent lead in the exit polls, and it
15 turned out in the results that Bush won by 2.5 percent.
16 That's where the 5.5 percent discrepancy comes. It
17 represented an eight million vote transfer, eight million
18 votes were transferred in that election. There was five
19 million away from Kerry and three million excess votes for
20 Bush. In Florida alone, three independent studies showed of
21 the 52 counties where they used the scan machines, there
22 were 500,000 votes transferred. Three independent studies.
23 That means in essence Bush lost Florida, and if there was a
24 hand recount we could prove that.

25 (Applause.)

1 MR. BAYER: And this represents the grand
2 conspiracy that they will not recount and hand recount those
3 votes. Now, it turns out that in that particular transfer
4 -- now, let me get off on one other thing here.

5 Okay. In order to use electronic machines, if you
6 have to use it, which I do not approve of, you need a three
7 percent mandatory count. You cannot go along with a one
8 percent mandatory count. You need exit polls. You need
9 exit polls. You did not have exit polls in Proposition 66,
10 you did not have exit polls in Proposition 57. There were
11 no exit polls. Fine.

12 Okay. You had ten DRE counties in Southern
13 California and around the state where you could not recount
14 the vote. You could not recount the vote. If we had that
15 situation in Sacramento this last election, we had a close
16 contest for the Sacramento City School Board. You would
17 have had to throw the election out, because here you have at
18 least optical scan machines and you could recount and
19 carefully count it. You can't do that. And that's exactly
20 what Arnold wants in the next election.

21 (Applause.)

22 MR. BAYER: You have these DRE counties in the
23 south.

24 Now what we also need is a depoliticalization.
25 You started this hearing giving us a political rap. We

1 didn't want to hear it and I was very loud and adamant about
2 it. And I apologize to you, sir, if I shouted, but I don't
3 want to hear your political rap. You should not be a member
4 of the Republican party. We need a Secretary of State who
5 does not represent any party.

6 (Applause.)

7 MR. BAYER: We have got to put voting back in the
8 hands of the people. Voting cannot be privatized. It's not
9 something you hand over to private companies.

10 (Applause.)

11 MR. BAYER: It flies in the face of the
12 Constitution of the United States and the Constitution of
13 California. That is not democracy. Democracy has a public
14 voting procedure by public officials who are not partisan.

15 (Applause.)

16 MR. BAYER: Okay. I am going to finish up. I am
17 going to hand you a packet of what was brought in the 2004
18 election. I'm going to hand you a package that contains the
19 election of Arnold Schwarzenegger which shows that Arnold in
20 his 2003 election where Diebold used illegal voting
21 software. That's why Diebold has no right to even
22 participate in elections in this state. Arnold got five
23 times as many votes on the electronic machines, and, in
24 fact, Cruz beat him in all the counties where they did not
25 have electronic voting machines.

1 My final statement. Diebold should not be allowed
2 to participate, they should be rejected on face, they have
3 already cheated the California voters and they will continue
4 to do so. They have cheated us on the national level by
5 transferring the votes that we just talked about. And then
6 those analysis are done by 15 Ph.D statisticians and their
7 petitions. Okay. When you look at the citations, then you
8 will understand that I'm not just in here talking a lot of
9 hot air, there are hard facts.

10 The same statistical methods that we use in the
11 voting analysis are the same ones you use to study which
12 medicines you didn't take. But you will accept those
13 statistical studies for your medicine, for your body, but
14 you won't accept their scientific methods, you won't accept
15 them for voting analysis. That amazes me.

16 This is because of the media. The reason you
17 won't accept them is because the media called the
18 presidential election too soon. They threw out their
19 hypothesis without any investigation, without any questions
20 about whoever. They threw out the possibility that the
21 voting machines that counted the vote were wrong. They
22 threw that out. They just assumed the exit polls were
23 wrong. And that was a biased decision and it was biased
24 because the media fundamentally is controlled by corporate
25 America. We do not have a free press in the United States.

1 You cannot have a free press and have it owned by the
2 corporations.

3 (Applause.)

4 PANEL MEMBER DANIELS-MEADE: Excuse me one second.
5 First of all, I don't believe this Panel had anything to do
6 with what the media does. But second of all, I really think
7 it's important that we understand this is not a political
8 rally or any other kind of rally, this is a public
9 information gathering hearing. We will hear it all.

10 CHAIRPERSON WOOD: And again just to remind you,
11 there is an open comment period for anything in writing from
12 now until June 30, so you're absolutely encouraged to submit
13 anything in writing until June 30th.

14 PANEL MEMBER GULLAHORN: Mr. Bayer, will you
15 correct me if I'm wrong, you presented your expert opinion
16 as a computer expert from USAID.

17 MR. BAYER: Right. From USAID, no, a former.

18 PANEL MEMBER GULLAHORN: Former.

19 MR. BAYER: And you can find me on the website, if
20 you look. David Bayer, USAID.

21 PANEL MEMBER GULLAHORN: So I should read through
22 your testimony with computer security in mind?

23 MR. BAYER: Yeah.

24 PANEL MEMBER GULLAHORN: Okay.

25 CHAIRPERSON WOOD: Thank you.

1 We're going to move, I think, for about a half
2 hour now and until we take a lunch break into public
3 comment.

4 Excuse me. I'm sorry I didn't see you there.

5 MS. LEVY: I'm barely taller than the podium here,
6 so that might have something to do with it.

7 My name is Emily Levy, and I'm here from Santa
8 Cruz, Bruce McPherson's home town.

9 I am the former Chair of the Santa Cruz
10 Accessibility Committee, which was responsible for the City
11 of Santa Cruz's official response to the Americans with
12 Disabilities Act. So I am very familiar with disability
13 issues. And I was also instrumental in the investigation
14 conducted by Richard Case Phillips, Ph.D. of the vote in
15 Ohio in November 2004, an investigation which has really
16 called into question the veracity of the vote count there,
17 the vote totals, based on questions including those about
18 electronic voting technologies, including people with ES&S
19 which are active in that state.

20 And I want to say first of all that I believe that
21 those of you on the Panel here want fair elections. You've
22 put a lot of work into being on this Panel because this is
23 clearly an issue that is important you, and I really want to
24 honor that. And I want to invite you to look at the
25 audience's fervor today as an indication not of hostility,

1 but of how important this issue is to the people of this
2 country.

3 (Applause.)

4 MS. LEVY: And also as an indication of the
5 frustration that many of us have about how difficult it is
6 to be listened to and for the will of the people to be
7 carried out by our government these days. So please don't
8 take it personally, we just care really a lot about this.

9 So I believe that you do care about this issue,
10 and it's tricky sometimes to figure out who to believe.
11 Here you have people who are professionals that can tell you
12 that they've come up with a voting system that they believe
13 is going to suit the needs of the state and they are paid,
14 they are hired, you know, they have their suits on and they
15 look really believable. And then you have a bunch of people
16 who are trying their best to look professional and come here
17 and do our best to speak in front of you maybe in a
18 situation where we never have before. Well, we are experts,
19 because the voters are the experts of voting.

20 (Applause.)

21 MS. LEVY: And we don't have a vested interest
22 financially, but we do have a vested interest morally. When
23 you have a system that is not verifiable, whether or not
24 it's been hacked, whether or not there is anybody who is
25 doing dirty business with the system, when it's not

1 verifiable as these electronic systems with proprietary
2 software are not, you don't have voter confidence. So
3 whether or not the tally of the votes are accurate, the
4 voters are not going to believe that they are, and that's a
5 major problem for our democracy.

6 (Applause.)

7 MS. LEVY: Secret ballot is not supposed to mean a
8 secret from the voter.

9 (Laughter.)

10 MS. LEVY: We need to know that the vote that we
11 have chosen to make is the vote that is recorded and
12 counted. And that's why we need to have paper ballots that
13 are the ballot of record, not simply a paper trail that may
14 or may not be counted. It's not enough to have paper
15 ballots that can be used in a recount. As we saw in 2004 in
16 New Mexico, a recount was not allowed. In Ohio a meaningful
17 recount did not occur. The law was violated in nearly every
18 county in Ohio. So we can't count on there being that
19 recount and we have to have the paper ballots the first time
20 around.

21 I really believe from listening to the staff
22 report about these Diebold systems, the Diebold system that
23 is up for your consideration today, that there are too many
24 concerns about it. Even if I believed it was possible for
25 it to be a good system, which I really don't frankly, even

1 your staff report cited several really significant concerns
2 and then made a recommendation that the system be certified
3 and then those concerns be addressed. I think that's really
4 backwards.

5 (Applause.)

6 MS. LEVY: Those concerns should be addressed
7 before you consider certifying such a system.

8 And I want to invite you today to be heros of
9 democracy and to turn down this system that is really only
10 supported by people who have political or financial
11 advantages in supporting it. As far as I know, there are
12 really not members of the public who are fully informed on
13 this issue who support electronic voting. And as a member
14 of the disability community and someone who has worked
15 closely with the disability community I really resent the
16 way we are being used to justify the move to electronic
17 voting. I really think it's an excuse.

18 (Applause.)

19 MS. LEVY: That's all I have to say. Thank you
20 very much for your time.

21 (Applause.)

22 MR. GEORGE: Hi, my name is John George, and I've
23 been a computer programmer since the late '70s. And I've
24 worked on systems from Wall Street trading software and then
25 to international accounting systems.

1 And there is one thing that corporations are very
2 excited about and that's counting money. I'm far more
3 excited about counting my vote. And I've had unhappy
4 responses from both ES&S machines and from Diebold machines
5 in the primary just passed and in the Napa city election
6 just passed in 2005.

7 In the 2005 election, there were precincts that
8 turned in one count and the official tallies were different.
9 When I tried to use a paper ballot instead of the Diebold
10 machines, I was told that I had to drive to Stockton, which
11 is about a 60 mile trip, to be able to vote and I was told
12 about 6:30, and she said she would not keep the ballots open
13 and if I didn't make it by 8:00 o'clock, too bad. So
14 there's been an attempt to force people to use these
15 machines, and they cannot be trusted.

16 Now, I would like to point out a couple of things
17 from my professional experience. One of them is that the
18 idea that some company has to have propriety software and
19 that the customer can't look at it or own it is a crock.
20 Oh, and I've also worked for county governments, including
21 county governments in California. I mean you guys are the
22 customers, and I do believe there is this thing in the world
23 of business called customers. So you don't have to take
24 what they tell you, you buy what you want.

25 (Applause.)

1 MR. GEORGE: Now, let's say you're going to allow
2 them, you're going to allow them, to have proprietary
3 software, okay. They should at least, and it's a common
4 business practice, put that software, including source code,
5 in escrow open to you.

6 Now, the other thing is you've probably seen signs
7 here about open source software, and there's a lot of
8 dispute about whether it's good or not. But let's just take
9 a look at the idea, okay. Somebody makes a computer and
10 somebody else writes the software. Most of us have Windows
11 computers, somebody creates the computer, somebody else
12 creates the software. There is no reason that you have to
13 have your software running on a Diebold machine or any other
14 maker that's not open source software, okay. Open source
15 software is cheap and it's nearly free, and it's of higher
16 quality security, and it basically started coming out of
17 some of the finest computer departments in the world which
18 happen to be the University of California.

19 (Applause.)

20 MR. GEORGE: Why don't you as customers demand
21 that they make their hardware run open source voting
22 software and that we convert these machines into ballot
23 marking devices instead of DRE.

24 (Applause.)

25 MR. GEORGE: There are all of these wonderful

1 computer science departments, professors, security
2 departments, and why not use what you already own to create
3 the software that runs on their machines, if you want to buy
4 their machines. But you're the customer here, you should be
5 telling them what you want, not listening to a bunch of 18
6 dot 19 dot 41 dot 2Y. I can tell you that as a
7 professional, you know, software is revised constantly, and
8 the best software comes out of open source environment where
9 both sides can look at it, the security people can look at
10 it and the usability people can look at it. And it's a
11 known fact right now that security holes get fixed faster in
12 open source software than they get fixed in proprietary
13 software. Nobody can afford the kind of program staff and
14 the talent that's out there free. So, you know, you guys
15 are responsible for our money. Okay. I want you to get a
16 good deal for us.

17 (Applause.)

18 MR. GEORGE: It's not Diebold at your beck and
19 call. Just ask, just write a letter to the computer science
20 department at UC Berkeley and say would you guys please work
21 out some software. And tell your vendor, hey, I want you to
22 make some of that hardware available to them so that they
23 can write the software. Basically, anybody can create a
24 machine and any good programmer can write the software, and
25 it's by the collaboration of all those people to solve this

1 problem.

2 I think you people really want to do the right
3 thing, so think of yourselves as the customer, don't allow
4 all the dot 3s and 19 dot 2s and all the specification
5 numbers and stuff snow you. Okay. It's not hard.
6 Computers can be like used cars, okay, and there's always a
7 salesman in a nice suit waiting to sell you. And it's up to
8 you as the purchaser to try and watch out to make sure that
9 you don't get caught by some slickster.

10 So I think I'm about done. It took a lot for me
11 to get up the guts to get up here and talk.

12 PANEL MEMBER DANIELS-MEADE: You're doing fine.

13 (Applause.)

14 MR. GEORGE: There is no reason why any of these
15 vendors can't work with the University of California
16 computer science department to come up with software that
17 can be trusted and a methodology that can be trusted. But
18 the way it is now with all these little black boxes and all
19 this redacted comment and all that stuff, you know, plus the
20 things that are publicly available concerning all of the
21 flaws and the poor quality of the work that's been done, it
22 just makes it to where it's just obvious that we need to
23 have the kind of openness. Like I said, make their hardware
24 run University of California certified software.

25 (Applause.)

1 MS. ROBERSON: Mr. Chairman and Members of the
2 Board, I am Eve Roberson from Santa Rosa, California.

3 As a retired election supervisor of many years, I
4 am intimately aware of the many details that go into a
5 successful election. I think we can all agree that to have
6 a successful election, the voters must above all else be
7 assured that their votes are accurately counted. In order
8 to have votes counted accurately, we must have electronic
9 equipment that cannot be hacked. Unfortunately, neither of
10 the two systems under consideration today can assure voters
11 of that, as has been demonstrated in past elections in which
12 they had been used.

13 I support the spirit of the Help American Vote
14 Act, which is HAVA, and I do not want the state to squander
15 our hundreds of millions of taxpayers' dollars on any
16 equipment which does not meet the open and secure elections
17 standards, and which has to be replaced within a few years
18 as technology changes. But I am concerned not only with the
19 huge initial cost of this complex equipment, which makes our
20 HAVA money only a down payment. Their hidden costs then
21 become just one more unfunded mandate. Storage,
22 transportation, repair and maintenance, personnel costs,
23 training, constant battery changing, and roving teams of
24 technicians to name just a few.

25 The technology is not proven yet. So until

1 electronic voting systems that provide transparency and
2 adaptability and auditability are available, paper ballots,
3 even optically scanned, will continue to provide
4 Californians with secure elections. This is an accurate,
5 low cost alternative to the costly and risky voting systems
6 of Diebold and ES&S. Handicapped access can be met with
7 simple add-on audio and tactile assistant devices. We all
8 are citizens, the assurance that their votes will be
9 accurately counted, our democracy depends upon it. It's for
10 these reasons I urge you today to reject Diebold and ES&S
11 voting systems for use in our state.

12 Thank you.

13 (Applause.)

14 MR. O'NEIL: Mr. Chairman, a point of order.

15 CHAIRPERSON WOOD: Yes, sir.

16 MR. O'NEIL: The last several speakers are not
17 addressing technical issues. There is a lot of people here
18 who are programmers and they get up here and say I'm a
19 programmer, therefore I'm going to address technical issues,
20 and they address everything but technical issues. I signed
21 a card, I have different points than they do that I would
22 like to make. In all fairness to people who signed cards,
23 we should follow the process. It's time to cut off so-
24 called technical testimony and follow procedure.

25 CHAIRPERSON WOOD: I think what we will do now --

1 Sir, would you state your name, please.

2 MR. O'NEIL: My name is Chuck O'Neil.

3 CHAIRPERSON WOOD: Thank you.

4 We have a very large number of folks who wish to
5 speak, and since this is a public meeting, the opportunity
6 is going to be afforded to everybody who signed a card to
7 speak. So these are all pretty random, except for folks who
8 have indicated they want to speak on Agenda Item Number 2.
9 So we're going to be still on Agenda Item Number 1,
10 beginning on public comment.

11 Deborah Hench.

12 And again, just as a housekeeping chore, when you
13 come forward, please identify yourself and state your name.
14 Thank you.

15 The next person would be Ms. Yeager.

16 MS. HENCH: Good morning. I'm Deborah Hench,
17 Registrar of Voters for San Joaquin County.

18 I have heard of a lot of the objections. Now, the
19 truth is that I'm one of those registrar of voters that has
20 the DRE. We use the TSx for the primary and we didn't have
21 any problems. And my voters did not dislike the
22 touchscreens. Our Grand Jury report has come out, they
23 liked it and wanted to make sure it got recertified.

24 To the issues on security and open source code, we
25 already by state law send our sources to the state to put in

1 escrow before the election and after the election. That's
2 so that the state can review it for changes. We have put in
3 place more security than we've ever had in this year's
4 elections, monitoring and other different types of cameras,
5 security issues.

6 The new version of TSx has different levels of
7 passwords, different levels of cards. These are all things
8 that were requested and we've asked for and in this version
9 of the software we'll get. There is no reason to feel that
10 we are trying to do anything other than conduct a secure,
11 safe election. That's my job and I have worked in elections
12 for 22 years, I've been with the county for 31.

13 During this time I have seen every type of
14 election, paper punch cards, the Mark-A-Vote, and now we're
15 in electronic. Every Secretary of State, every Registrar of
16 Voters in the state of California wants one thing and that's
17 to be able to conduct our elections, to do it in a secure
18 environment, to make sure our voters' votes count, and that
19 is our whole goal.

20 CHAIRPERSON WOOD: That's two minutes. Thank you.

21 (Applause.)

22 CHAIRPERSON WOOD: Ms. Yeager. And then Mr.
23 Walter Gibson.

24 MS. YEAGER: I'm Patricia Yeager, Director of the
25 California Foundation for Independent Living Centers. We

1 represent 25 federally funded centers who provide services
2 and care, support, civil rights for people with disabilities
3 of all types. I'm hearing impaired since the age of two. I
4 have a master's degree in rehabilitation counseling and I've
5 been doing advocacy work for the past 29 years or so.

6 I'm here today to talk to the issues on the
7 agenda. Eighteen percent of Californians have a disability.
8 Ten percent have a significant disability. The federal law
9 requires a voting machine in each polling site be
10 accessible, and we support that goal.

11 The disability community that we work with, and
12 believe me there's a wide variety of opinions about this,
13 but on the whole, all of us want to vote independently and
14 securely and privately, with privately being a very big
15 concern here.

16 In our community we value universal design, that
17 is when you design equipment and processes and a building so
18 that they are useful to the most number of people without a
19 lot of add-ons, because add-ons break down. They usually
20 cost a lot to keep up and to develop.

21 Several years ago we fought the idea of having a
22 voter-verified paper trail because it is not accessible.
23 The Secretary of State decided that there would be a
24 accessible voter-verified trail. No such machine exists at
25 this point. The federal regulations have not promulgated

1 about addressing these kinds of an accessible voter-verified
2 paper trail. We have looked at both of the machines and
3 questioned.

4 While we support direct recording devices, we
5 believe that the Diebold machine is not finished yet --

6 CHAIRPERSON WOOD: Ms. Yeager, your two minutes
7 are up. Thank you.

8 MS. YEAGER: Thank you.

9 CHAIRPERSON WOOD: Mr. Gibson.

10 And then this will be the last speaker before
11 lunch. Neil Hudson.

12 MR. HUDSON: I'm Neil Hudson, Oakdale, California.
13 I represent myself.

14 At the last meeting in April of 2004, I mentioned
15 the fact that the Secretary of State had authority to hire
16 independent computer experts to analyze these machines and
17 the expense was going to be paid for by the companies
18 themselves so that you had the ability to hire university
19 people to really scrutinize these machines. And I'm glad to
20 see you have a Technical Advisory Board at this point,
21 that's I think a step in the right direction, if we have to
22 go to these machines. I don't think that people should be
23 forced to accept these machines, but apparently that's the
24 momentum at this point.

25 I would like to know the biographies of this

1 technical team you have. There are technicians on both
2 sides of the partisan sector as we know, and I would like to
3 find out from you, Mr. Wood, if that's available, the
4 biographies of these technicians that you are consulting.
5 Is that possible?

6 CHAIRPERSON WOOD: Yes. That will all be posted
7 on the Secretary of State's website.

8 MR. HUDSON: Thank you very much.

9 CHAIRPERSON WOOD: Thank you, Mr. Hudson.

10 Am I reading my watch wrong? I was reading my
11 watch wrong.

12 Jennifer Kidder, please. And then perhaps Carol
13 Nelson.

14 MS. KIDDER: I'm speaking on a different issue
15 with the Voting Rights Task Force.

16 And I just wanted to say that in terms of voting
17 machines, that for any part of our voting system, which is
18 the most fundamental part of our democratic republic to be
19 privately owned or operated or hidden from us in operation
20 is unacceptable. And any voting machine breaks the chain of
21 custody as soon as you push cast ballot. And all aspects of
22 the most fundamental base of our democratic voting system
23 must be owned and operated by the public, the people, and
24 there's no aspect of our society more important to be
25 entirely controlled and understood and owned by the people

1 than the very operation and equipment by which we govern
2 ourselves.

3 And without complete ownership and control of our
4 voting system, I don't feel that we do own and control our
5 own country. I feel that the voting machine companies do
6 own our country right now. And along the same lines, for
7 trade secrecy or protection of private property with
8 propriety laws to override the public trust and the
9 protections of the people, the people's interest, is
10 unacceptable and the people's interest should trump private
11 interests in all situations, much less the most important of
12 those situations, our democracy itself.

13 (Applause.)

14 MS. NELSON: Hello, my name is Carol Nelson from
15 San Rafael, and I just represent myself.

16 I feel it's a huge mistake to allow two companies,
17 Diebold and ES&S, to control the voting system for our
18 entire country, especially because these two companies have
19 strong ties to one political party.

20 (Applause.)

21 MS. NELSON: While it may sound as though Diebold
22 and ES&S are creating machines that provide an accurate vote
23 count, experience across the country has shown that huge
24 vote discrepancies have occurred, most notably the
25 discrepancy between the exit polls and the certified vote

1 count, and this discrepancy has never been explained to my
2 satisfaction. And I urge you to use as little technology as
3 possible in our elections and to rely on manpower and
4 womanpower for vote tabulation, even if it takes longer than
5 computer tabulation.

6 Putting expediency over accuracy could very likely
7 spell the death of our democracy. Please protect our vote.
8 Thank you.

9 (Applause.)

10 CHAIRPERSON WOOD: Hal Carlstad and then Don
11 Nicodemus, please.

12 MR. CARLSTAD: I'm Hal Carlstad from Kensington,
13 California. That's Contra Costa County. And this is my
14 patriotic duty for today.

15 Our so-called democracy, the empire, is conducting
16 illegal, immoral acts, war, World Bank, the Dunn Street
17 memo, all over the world. And then we are imposing our
18 system on nearly every country, and if they refuse, we
19 initiate a brutal war to impose our system. The least we
20 could have is a fair election process. At a minimum, when I
21 go to that poll, I want to make sure that my vote counts.
22 That's my patriotic duty, and I want to make it fair, and
23 that means a paper ballot so that you can't cheat. I don't
24 trust my government for one second.

25 (Applause.)

1 MR. NICODEMUS: Don Nicodemus from Cameron Park in
2 El Dorado County.

3 And I certainly agree with what the speakers have
4 referred to before as far as proprietary software. It needs
5 to be public. I certainly also have some technical
6 background, a programmer analyst and consultant for about 25
7 years or so. And I certainly do have some questions for the
8 staff and for Diebold representatives here.

9 First of all, how is it you have this big loophole
10 as far as the paper trail and that the system can be taken
11 out and those votes not on the paper trail connected with
12 them? How is it a paper trail when some votes are not
13 recorded on paper? So in a sense it's not really a paper
14 trail if you can have the option for some of the votes not
15 to be recorded on paper.

16 Secondly, I'm very concerned about how the GEMS
17 system is updated by modem, and what happens if part of the
18 data set isn't updated by modem with the polling place, how
19 the update is done? Does it include everything? Does that
20 mean that there needs to be a second update, an edit of the
21 data, so to speak? And if so, if you allow for multiple
22 updates from the same polling place or the same county, how
23 do you know that the county was the last one to update by
24 way of modem?

25 So is there an ability to update by modem, how

1 secure are the updates? What sort of method is done? This
2 is an actual question that I have. I mean what is the
3 process? Can the counties submit a second report.

4 CHAIRPERSON WOOD: Thank you, Mr. Nicodemus,
5 And I think now just before our break, Cynthia
6 Johnson will be the last speaker.

7 MS. JOHNSON: I live in Contra Costa County, but
8 I'm very associated with Alameda County.

9 I work with elderly people, I took off today to
10 not be with my 80- and 90-year-old patients because I'm very
11 concerned about the generations of the future and their
12 democracy, like so many here have stated, and I know that
13 you all are concerned with that too.

14 So, therefore, I'm not a programmer. I have a
15 hard time with my own computer, but I really think it's
16 pretty clear. I mean there are two people in Alameda county
17 who are very concerned about how the propositions went
18 last -- every day in Alameda county, our supposedly most
19 liberal county, and they were extremely upset about the way
20 Alameda county counted its ballots in Berkeley. So if
21 that's the way they are counted in Berkeley on these
22 machines, and I need to study HAVA a little more, because I
23 hope we do not have an electronically mandated -- so it's
24 not electronically mandated, because I think it's the same
25 way to go back at this point when technology, you know, I

1 believe there will be tremendous changes in these next few
2 years.

3 I think we can go back to -- I have had the
4 privilege of being in some of the developing countries,
5 Venezuela, where they do a good job. I mean it can be done.
6 And with all the expertise that has been referred to here at
7 UC, I'm sure that we are brilliant enough not to have
8 Diebold and ES&S and just assure the trustworthiness and
9 integrity of our voting system. I think that's all I really
10 wanted to say.

11 (Applause.)

12 CHAIRPERSON WOOD: We will take a lunch recess now
13 for one hour. Please be back at 1:30. We will start
14 promptly at 1:30.

15 (Thereupon lunch recess was taken.)

16 CHAIRPERSON WOOD: We are going to begin the
17 afternoon session. And what I'd like to do, we have three
18 additional folks who indicated that they would like to speak
19 as experts, and I'd like to take them in this order,
20 Kathleen Wynne, Bev Harris, and Jim March.

21 And then for successive speakers, I will indicate
22 the speaker who will be speaking and then two additional
23 names to follow so we can maybe keep the process moving a
24 little more expeditiously.

25 MS. HARRIS: Hi, my name is Bev Harris. I'm from

1 Black Box Voting.

2 (Applause.)

3 MS. HARRIS: I always get real nervous with this
4 particular Panel, I don't know why. But this isn't as bad
5 as when you guys seated Bob Orosovich behind me and he
6 glared at my back all the time.

7 The bottomline is we talk a lot about minutiae,
8 and we really do need to keep pulling back to the big
9 picture. We're dealing with the public trust --

10 CHAIRPERSON WOOD: You're indicating you're
11 speaking as an expert?

12 MS. HARRIS: No, two minutes.

13 CHAIRPERSON WOOD: Okay. My mistake, excuse me.

14 MS. HARRIS: We're dealing with the public trust
15 and that means we really need to pay attention to the
16 actions of the company, and we have to make a decision is it
17 even appropriate to do business with Diebold. I don't know
18 if everybody caught this, but when Harri Hursi stepped up
19 here and talked about the hack in the county, he was talking
20 about something that blows a cannonball through the
21 foundation of Diebold Election Systems program. It is a
22 designed in welcome back for vulnerability. It is not a
23 glitch, it's not something that you can work around, it is
24 in the design itself and it took him less than five minutes
25 to go right on through the system leaving no evidence

1 whatsoever.

2 We need to look at who from Diebold, and by this I
3 mean Diebold, Inc., knew what and when did they know it.
4 Because our experts found this in less 24 hours. It was
5 that obvious. It was inadequately designed, you will see
6 it.

7 Let's look back to the acquisition of Diebold when
8 they bought Global Election Systems, which is the real
9 system we're using. They made an offer, very quickly they
10 discounted that offer by a large amount, about 25 percent.
11 Then they discounted it again and then they discounted it
12 again until they got the company almost for nothing. What
13 happens during that period of time, due diligence. In due
14 diligence, when it's a software-related company they do two
15 things, one, to see that it actually is their software, so
16 they don't get a copyright suit, and the other is to see if
17 there is a problem with the software. During this due
18 diligence time there was a massive discounting of the price.
19 What did Diebold know and when?

20 There is only three possibilities here. One, they
21 didn't do any due diligence. If that's the case, it is not
22 acceptable for the state of California to do business with
23 Diebold. Two, they did due diligence --

24 CHAIRPERSON WOOD: And, Ms. Harris, I'm going to
25 have to tell you your two minutes is up.

1 MR. MARCH: She's expert.

2 PANEL MEMBER DANIELS-MEADE: We just asked if she
3 was expert.

4 MS. HARRIS: Let me finish my two points and I'll
5 be out of here.

6 Two, they did due diligence, they found the
7 problem and they sold the software anyway, in which case
8 they have no business doing business with California.

9 Three, they found a problem and they wanted the
10 problem, in which case they had no business doing business
11 with California.

12 Thank you.

13 (Applause.)

14 PANEL MEMBER DANIELS-MEADE: I would like to
15 clarify, we were welcoming her to speak as an expert as long
16 as she wants, okay.

17 MS. WYNNE: Hi, my name is Katherine Wynne and I'm
18 an investigator for Black Box Voting.

19 I just wanted to talk quickly about something that
20 hasn't been talked about here today, it's procurement. We
21 have to pay attention to how these machines are bought and
22 paid for and that process. I think that's a part of this
23 process that has not -- it's broken just as much as
24 certification is broken. And what I mean is bribes and
25 kickbacks do happen and one example, in Chicago, we did an

1 interview with Dr. Wanandronich (phonetic). He was a
2 lobbyist for Diebold. He had \$20,000 a month without
3 evidence that he was being paid this. What we also found
4 out was he did not disclose that he was being paid this
5 money, he did not disclose, and according law he was
6 supposed to do so. So this kind of money that changes hands
7 behind the scenes when by law they're supposed to let us
8 know that they're getting paid and how that money is being
9 spent, we had no idea where it went. And he did this since
10 December of 2003 and only disclosed he was a lobbyist in
11 March of 2005. So that breaks laws and it goes under the
12 radar screen.

13 So we need to pay attention to the procurement
14 process that is also broken, because the American public
15 will be paying for that too along with all the other fees
16 that come with buying these systems. And that is the
17 process that seems to go on and unnoticed and unresponded
18 to. And we've got to pay attention to that and that is just
19 as important as making sure the systems are secure, that
20 either way we're spending money to put something into play
21 that is going to take away our votes, and I think that
22 everyone here today is saying no. And I think I say that
23 myself.

24 Thank you very much.

25 CHAIRPERSON WOOD: Thank you.

1 (Applause.)

2 CHAIRPERSON WOOD: Excuse me, Mr March, before you
3 begin.

4 Right after Mr. March, we'll have Ana Acton and
5 Kim Alexander, please.

6 MR. MARCH: Jim March, Member of the Board of
7 Directors, Black Box Voting.

8 I have several concerns right here. Going back to
9 November, December 2003, this agency caught Diebold and sold
10 uncertified software up and down the state of California.
11 Well, are you aware of the Maryland newspaper report that
12 says the state of Maryland caught them at the exactly the
13 same thing circa March and April of 2004. In other words,
14 you caught them doing dirty here in California, they
15 apologized up one side and down the other, then they went
16 and did the same thing in another state in the Maryland
17 state primaries. You cannot trust this company. You cannot
18 trust them.

19 (Applause.)

20 MR. MARCH: Your own staff report dated April
21 20th of 2004, went and called them a pack of liars. It cast
22 so much doubt on their ethics and their integrity that the
23 County of Sonoma or Solano, I can't -- Solano, paid \$419,000
24 to make them go away.

25 Now, if you continue certifying or allowing

1 Diebold products to be run in California, you are taking two
2 risks. One, you're taking a risk that other counties that
3 finally want to get out from under them will have to pay a
4 whole bunch of more money to do so, if you keep certifying
5 them. You're also placing a horrendous gamble that people
6 like myself, like Bev Harris, like Kathleen Wynne, unsung
7 heros like Jodi Holder, and many, many others in this
8 audience are going to keep losing. We're going to keep
9 being blocked in our investigations, blocked by the Georgia
10 Secretary of State's office, the California Attorney
11 General's office. You are going to bet that we're going to
12 keep losing and we're not going to get the truth one day.
13 That's a bad bet, folks, it's a real bad bet.

14 Consider the situation Diebold's in at this
15 meeting right now. If you keep decertify them, if you throw
16 them out of this state, they're dead. They're out of the
17 elections business permanently nationwide. They are up
18 against the wall --

19 CHAIRPERSON WOOD: Your two minutes are up, Mr.
20 March, if you could wrap it up quickly.

21 MR. MARCH: Ten seconds. I can lose -- I've lost
22 several. We can lose again and again and again, we can pick
23 ourselves back up, and we can keep fighting. That's not
24 Diebold's position. You don't want to gamble that they will
25 win every single round, because that's what they have to do.

1 People like myself, Bev, we're tough, we're going to keep on
2 pounding on them and we're going to catch them. And if you
3 keep certifying under those circumstances, you are risking
4 this state's finances badly.

5 Thanks.

6 (Applause.)

7 MS. ACTON: Hi, my name is Ana Acton, and I'm from
8 FREED Center for Independent Living and CFILC.

9 And we support a universally designed voting
10 system that is successful and useable by everyone. And we
11 also support and accept voter-verified paper audit trails
12 that is useable by people with disabilities, including
13 people with visual disabilities or who cannot read print.
14 And, you know, if everyone else can verify their vote using
15 the AVVPAT, then people with disabilities, with visual
16 impairment and cannot read print should also have the
17 ability to verify their vote.

18 We are a little concerned with the Diebold machine
19 not having a sip-and-puff device which enables a lot of
20 people who cannot vote right now independently and
21 confidentially to be able to do so. And as well as the
22 AVVPAT not being able to go with the DRE if it was taken out
23 for curbside voting. You know, just to be fair, we support
24 the ability for people to be able to vote independently and
25 privately, confidentially. It's something that most of us

1 have been able to do all our lives and there's a lot of
2 people out there who have never had an opportunity to vote
3 independently and privately and we support that concept.

4 Thank you.

5 CHAIRPERSON WOOD: Thank you.

6 (Applause.)

7 CHAIRPERSON WOOD: And after Ms. Alexander, Alex
8 Bash, please, and Byron Bellamy.

9 MS. ALEXANDER: Good afternoon. I'm Kim
10 Alexander, President of California Voter Foundation.

11 I distributed letters to the Committee yesterday,
12 which I hope you're all in receipt of, outlining some of our
13 concerns about the certification of the equipment today.

14 The first concern involves Diebold's draft
15 procedures. What we noticed in the procedures is that they
16 do not satisfy the manual count law. There are several
17 points in the procedures where these need to be clarified,
18 and I outlined those in my letter, I won't go over them now.
19 The manual count law has been around for 40 years in
20 California, and the purpose of this law, as expressed in
21 Election Code Section 336.5 is to conduct this procedure
22 during the canvass, a public manual tally of a set of the
23 ballots to verify the accuracy of the automated count. It
24 says that right in the statute.

25 This law has served California voters well for

1 most of the past four decades by ensuring that software
2 glitches, human error, or attempted vote fraud do not result
3 in erroneous vote totals. This manual count law provides a
4 form of transparency in our voting process which is crucial
5 given that the software used to count ballots is proprietary
6 and not open to public inspection.

7 So there are several places where that needs to be
8 clarified in the procedures that Diebold supplied to make
9 sure that counties that use this equipment know that they
10 must use a voter-verified paper trail and not a printout of
11 an electronic ballot image in order to conduct a manual
12 count. Otherwise, the voter-verified paper trail doesn't
13 have the meaning that it should have and the manual count
14 has absolutely no meaning whatsoever.

15 The second point I want to raise with the Panel is
16 the Diebold testing process. We're concerned that the
17 testing process was not followed as carefully as it should
18 be and specifically that Diebold supplied to the state of
19 California a different machine for testing that was not the
20 same unit that was supplied to the federal labs for testing.
21 This is not the first time that Diebold has supplied
22 different voting system components to state and federal
23 authorities for testing and qualification. You've heard
24 about some of those other instances already today.

25 Based on Diebold's prior practices in California's

1 certification process, we believe this is a company that
2 does not deserve to be given the benefit of the doubt. Why
3 didn't Diebold once they had a newer model of this printer
4 unit available supply that unit to the Secretary of State
5 for testing, rather than allow the --

6 CHAIRPERSON WOOD: Ms. Alexander, your two minutes
7 are up.

8 MS. ALEXANDER: Thank you. Just another moment,
9 please.

10 Rather than allow the Secretary of State to
11 continue testing a different unit. Given the history of
12 this company, it's imperative that the Secretary of State's
13 office guarantee that every step and every requirement of
14 the certification process is carefully followed so our
15 voters can have confidence in the election results.
16 Diebold's past transgressions in this area resulted in
17 widespread equipment failures in several California counties
18 that left thousands of California voters disenfranchised.

19 Thank you.

20 (Applause.)

21 MR. BASH: Good afternoon, I'm Alec Bash,
22 President of Democracy Action. I really want to thank you
23 for your attention to everybody this afternoon.

24 Today's voting machines and the secret source code
25 is like a hidden cancer in American politics. I lost my

1 sister, my father, and three aunts, some of you may have
2 also suffered losses, and many of us believe that our
3 country has also suffered great loss.

4 Cancer is insidious in the same way that the
5 secret source code that we have before us in the voting
6 machines is as well. Where you have highly partisan
7 ownership and secret source code, this ultimately means that
8 you cannot verify the results. Like cancer, you cannot rule
9 this out striking anyone anywhere. There are affidavits and
10 other anecdotal evidence strongly suggesting code
11 correction, code cancer.

12 We need either paper ballots or the open source
13 code, as Jim Soper had discussed earlier. It's important to
14 both Republicans and Democrats to take this issue out.
15 What's the best response to charges of a rigged election.
16 For all America, we need to take this issue out. We need to
17 move to paper ballots or open source code where people can
18 independently verify with full public scrutiny that it is an
19 honest election.

20 California is a great innovator, we are a leader
21 in the nation. Let us lead here. Let's take out this
22 cancer that is inflicting the body politic of this country.
23 If we can lead the country away from ongoing ugly division,
24 California will have done a wonderful thing. It must be
25 open source code. Do not go forward with secret software

1 that undermines the validity of our elections. Please do
2 not. Open up and cut out the tumor, kill the wound, start
3 curing the patient.

4 CHAIRPERSON WOOD: Mr. Bash, your two minutes are
5 up.

6 MR. BASH: Thank you very much.

7 (Applause.)

8 CHAIRPERSON WOOD: And following Mr. Bellamy,
9 Karen Bernal, and Judy Bertelsen, please.

10 MR. BELAMY: My name is Byron Bellamy, I'm the CEO
11 of a California corporation with 16 employees. I have two
12 children, I have a wife, I own a home.

13 The other day I was driving in Sacramento, I
14 pulled up to a stop sign, and on the back of one of the
15 left-turn signs was a little blue sticker that said five
16 million fake votes. I've seen it around town. Underneath
17 the sticker someone else had posted a sticker, slightly
18 different color, that said, does not offset the votes of 15
19 million illegal aliens. Now, this says to me that the
20 writer of the second sticker acknowledged that there had
21 been voter fraud in the presidential election, but that
22 there was a reason. And I think that that's what's going on
23 here.

24 We've got ideology and faith triumphing over
25 democracy. I'm a patriot, I'm an American. I see the flag

1 and I get tears in my eyes. I think the Constitution is the
2 greatest document ever created. I have many Republican
3 friends, half of my employees are Republicans. I've got
4 some Republicans, some Democrats, I've got a Libertarian.
5 Every single person in my company acknowledges that there
6 was voter fraud in the last election, massive voter fraud.
7 Every single one of them, Republicans and Democrats alike.
8 And this is so disturbing, it's something that I think will
9 divide us further.

10 If I were on the other side and Al Franken owned
11 Diebold and Randy Roads owned ES&S and the exit polls had
12 favored Bush but Kerry had won the election by five percent,
13 by 5.5 percent margin, I think I would do everything I could
14 to stand up for America and say listen, you know, something
15 looks weird here, let's do something about it. Instead
16 they're stonewalling, silence, political infighting,
17 ideology triumphing over what should be America.

18 John Adams said the United States of America
19 cannot be defeated or destroyed by anything but the spirit
20 of party, and that's what's happening here. Stop it, come
21 on.

22 (Applause.)

23 MS. BERNAL: Hi, my name is Karen Bernal. I'm
24 with Sacramento for Democracy.

25 I'm not an expert, I'm just a member of a

1 grassroots organization. We care about democracy and we are
2 dedicated to citizen involvement in the process. I just
3 would like to say that I think that -- I heard earlier a
4 discussion about perception and I think that that has a lot
5 to do with the problems that we have here before us.
6 Whether or not you believe in the system or not, the fact of
7 the matter is trust has been lost and so every problem that
8 you have is perception is reality to many people. Trust us
9 is not good enough, the incentive to cheat in elections is
10 just too high.

11 We demand that all aspects of election
12 administration be open to public inspection. This is what
13 open voting means. We should not have to dig for
14 information about the voting systems. Everything having to
15 do with elections should be constantly submitted for public
16 review in a regular and systematic way.

17 And I would say that once we lose trust in the
18 system, we really have lost the participation of citizen
19 involvement in democracy. And I want to say that we have so
20 many rights in this country, but voting is the one right by
21 which all others we get. So that's all I would like to say.
22 Thanks.

23 (Applause.)

24 CHAIRPERSON WOOD: Following Ms. Bertelsen will be
25 Darrow Bishop and Anne Blake, please.

1 MS. BERTELSEN: I'm Judy Bertelsen.

2 I want to speak specifically to matters that have
3 to do with the voter-verified paper audit trail that is
4 proposed by Diebold. The purpose of having a voter-verified
5 paper audit trail is to have the trail to traverse, not
6 simply an expensive miniaturized record that could be stored
7 and never read. It seems clear to me that Diebold AVVPAT
8 technology is useless for conducting a cost effective actual
9 hand count or recount. Unless Diebold can explain how its
10 technology can be used, its technology should not be
11 certified for purchase by counties in California.

12 Here are some key questions. How will the
13 continuous thermal paper tape be used to conduct a full
14 recount of an election. Will this require that continuous
15 thermal paper be cut at precise points, who will oversee
16 this, how will the pieces of paper be contained and used for
17 selection of a random sample for hand count. How will
18 touching of the thermal paper be done in such a way to
19 preserve the readability of the thermal documents? How will
20 the small print that requires magnification for voter review
21 be viewed by random sample counters or recounters? Will the
22 individual ballot be hand cut with scissors? What will be
23 done if there is a mistake in cutting? How will any miscut
24 fragments be reconnected? If thermal paper ballots become
25 unreadable because of handling or temperature changes, what

1 accessible voter-verified paper audit trail backup is
2 available?

3 It seems obvious that this system is designed not
4 to be used for a recount, or a count, and that is, of
5 course, the point of having a voter-verified paper audit
6 trail. It's not just to spend lots of money, get HAVA
7 money, et cetera.

8 Furthermore, proprietary secret election
9 technology presents serious threats to our democratic
10 processes. And I ask you not to certify frankly any secret
11 proprietary technology. Do not certify any of the items on
12 the upcoming agenda because vendors are not willing to
13 submit their products for full open scrutiny.

14 CHAIRPERSON WOOD: Ms. Bertelsen, your time is up.

15 MS. BERTELSEN: The federal screening process is a
16 bad joke. Okay.

17 CHAIRPERSON WOOD: Thank you.

18 (Applause.)

19 CHAIRPERSON WOOD: Mr. Bishop, followed by Anne
20 Blake.

21 MR. BISHOP: I'm Darrow Bishop and I'm from
22 Sausalito, California.

23 I just wonder if this whole thing is an exercise
24 in futility, I hope not. I don't know what the makeup of
25 this Board is, but I'm guessing it's a lot of Republicans.

1 And I would hope that you realize this is a people's issue.
2 And from what we've heard today about Diebold and their past
3 performance I think it is a big indication to say that we
4 don't know that we can have confidence, and that's what we
5 need is confidence so that we know our vote is counted.

6 So I hope this Panel can go beyond partisan
7 politics and look at the people's concern here. And I think
8 they've not only said that they don't like Diebold, and I
9 hope that you can say the same thing.

10 (Applause.)

11 CHAIRPERSON WOOD: Ms. Blake. All right.

12 Let's go with Carol Bledsoe, please, Tom Blodget,
13 followed by Marsha Bloodworth. And if you could all come
14 down and just be ready to speak at the podium, please.
15 Thank you.

16 MS. BLEDSOE: Hi, I'm Carol Bledsoe.

17 And I'm against faith-based voting. I believe
18 that the Diebold Corporation is going to do everything for
19 the benefit of the voters of California and the country. I
20 guess you heard so many comments today and questions and
21 concerns about the product, about the company, their testing
22 components, and not the whole system.

23 I don't know how you can proceed and certify the
24 whole system. I think it really should go back to the
25 drawing board. Let's not rush and blunder into something

1 that will cost us a fortune and it's going to be wrong and
2 it will cause millions of Americans and Californians to lose
3 trust in the system.

4 And I just would urge you to really rethink where
5 we need to go and to consider all the comments today,
6 particularly using the resources, the brilliance that we
7 have in our own system of objective scientists who can help
8 us really design a system that will meet everyone's needs
9 and will bring trust among all of us. Thank you.

10 (Applause.)

11 CHAIRPERSON WOOD: Mr. Blodget. Ms. Bloodworth.
12 And then following Ms. Bloodworth, please, Robert Bowman,
13 Diana Coulombe, and Julia Craig. And again, if you could
14 all come down and be near the podium. Thank you.

15 MS. BLOODWORTH: Hi, I'm Marsha Bloodworth, I'm
16 from Sonoma County.

17 First of all, I am disappointed that the Secretary
18 of State chose to begin the format of this meeting with a
19 political statement. And the next thing I want to say what
20 my background is, I'm a Lieutenant Colonel, retired, US
21 Army. I served many times --

22 (Applause.)

23 MS. BLOODWORTH: I served many times as a
24 contracting officer representative and was involved in
25 purchase of large systems, both computer systems and

1 laboratory equipment for the Department of Defense.

2 And I'm concerned with what I have seen so far.

3 The Panel by it's own admission says that it has previously
4 certified Diebold systems that were found to not work,
5 perform properly in the California primaries. We've heard
6 other testimony today about failure of the Diebold equipment
7 in Maryland elections. And a lot of the information that I
8 heard would make me as a person who was involved in an
9 acquisition process or certification process to be concerned
10 about doing business with this company.

11 From what I have seen, from what I have heard,
12 there are probably serious -- well, there are serious
13 problems with the security of the system. I'm also
14 concerned that we have been testing prototypes and not the
15 final version. And I've been involved with scientific
16 endeavors and I know that when you change one part of the
17 system that even though you don't know it, it can affect
18 another part of the system. So to do this piecemeal --

19 CHAIRPERSON WOOD: Your time is up.

20 MS. BLOODWORTH: -- certification is not good.
21 Well, I ask you to consider these, please.

22 CHAIRPERSON WOOD: Thank you.

23 (Applause.)

24 MS. COULOMBE: Hello, I'm Dianna Coulombe from
25 Santa Rosa, California.

1 And I'm saying that there must be a voter-
2 verifiable paper trail. And it's not quite what I'm hearing
3 other people say. I do have an idea. And the reason I'm
4 really concerned about this is because I live in Sonoma
5 County and I was given a tear off portion of my ballot to
6 verify I thought that I had voted. Well, I did, it said I
7 voted on it.

8 And after I found that the election could have
9 been stolen in Ohio, I got real concerned and I keep my
10 little papers and I went down to our registrar's office and
11 I said can I see my vote. And they said, oh, no, that's
12 only number for the precinct. And I went, well, then how do
13 I know that you counted my votes properly, and they said, we
14 can't. And so it's impossible, the number only meant
15 something to the precinct. And I left their office feeling
16 somehow ripped off and had no place to turn.

17 Today I feel like I have someplace to turn. I
18 have worked in accounting and bookkeeping for over 30 years.
19 My first ten years were with a couple of nonprofits that
20 were required to have annual audits. And I worked very,
21 very diligently every year to have everything easily
22 verifiable for the auditors. Nothing less would have been
23 acceptable.

24 I don't want anyone else's vote rearranged in
25 secret by anyone. To keep it secret for the people. So the

1 secrecy, I feel, it must be like having an auditor come here
2 and say, well, this is right and this is wrong. If we don't
3 get rid of the secrecy from the voting machines, it's an
4 opportunity for crooks.

5 CHAIRPERSON WOOD: Ma'am, I have to tell you your
6 two minutes are up. Thank you.

7 MS. COULOMBE: Okay. Thank you very much.

8 (Applause.)

9 CHAIRPERSON WOOD: And following this speaker,
10 please, Steven Day, John Deeter, and Terry Dillon, please.

11 MS. CRAIG: My name is Julia Craig and I live in
12 Berkeley, California.

13 I want to say that when first there were machines
14 for voting instead of pieces of paper that would be kept and
15 counted I felt very nervous. Then after hearing about
16 possible election fraud, I felt much more nervous. I, in
17 fact, believe that our vote had been stolen and I do not
18 think that there is any way for the state of California to
19 have its citizens believe there is an honest election unless
20 the election is on paper ballots and then it is watched,
21 counted, and taken care of. Nobody is going to believe any
22 kind of machines.

23 And I have some articles about Hayward, about
24 Diebold from the Hayward Daily Review that I copied and
25 would like to give to you.

1 CHAIRPERSON WOOD: Thank you.

2 (Applause.)

3 CHAIRPERSON WOOD: Our next speaker, please.

4 MR. DAY: Steven Day, I drove from Solano County.

5 And I volunteer for the Open Voting Consortium nonprofit and
6 I'm conducting outreach across the United States to
7 hopefully establish community advocacy groups for this
8 nonproprietary software and eventually hardware system also
9 in every county across the United States and every parish
10 and county and independent city.

11 But the main objective is to help see that
12 hardware and software are separated, and that the software
13 must be open source or revealed program code, and that's
14 more of a detail in your Agenda Item 2.

15 I am asking that you delay or extend the HAVA
16 funded purchase requirement and see that a grant of the HAVA
17 research and development money is lent to the UC system in
18 California for the testing and development and certification
19 of software that's nonproprietary secret code and
20 programming. And a little more, you will hear details about
21 the open voting system, but the Open Voting Consortium is
22 that it produces an actual paper ballot that the voter can
23 read and also scanned into -- read or listen to and scan
24 into with a poll worker for electronic counting and the
25 actual paper ballot is also cast in a traditional ballot

1 box. So that is the voter-verified paper ballot, and the
2 system produces a redundancy of combining electronic and
3 paper ballot so that it's easier for auditing.

4 CHAIRPERSON WOOD: Thank you.

5 (Applause.)

6 MR. DEETER: Hi, good afternoon, I'm John Deeter.
7 I live in Sacramento, California.

8 I would first like to state my objection to your
9 political statement to begin this meeting as totally
10 inappropriate for a nonpartisan meeting. That was truly out
11 of place.

12 As for Diebold goes, your staff report pretty much
13 sums it up. There are a lot of problems with the system
14 still, I'm surprised it's even on the agenda to be approved
15 today. It's not qualified. It's got so many problems as
16 three people have stated before me.

17 The other thing that almost nobody has mentioned
18 here is that we're already stuck with a lot of paper
19 ballots. Half the electorate or more can only get those
20 ballots today. So we're stuck with that route anyway, so
21 why not just continue that process in the polling place.
22 Again, it can work providing some electronic voting as kind
23 of a supplement, then we use paper as long as you're voting
24 absentee.

25 And I yield the remainder of my two minutes to

1 whoever else needs it.

2 Thank you.

3 (Applause.)

4 CHAIRPERSON WOOD: Following the next speaker, if
5 we could have Tom Ellsworth, Bill Emerson, and Tom Farrow
6 come down, please. Thank you.

7 MR. DILLON: Hi, my name is Terry Dillon, I live
8 in Berkeley, California. And thank you for the opportunity
9 to speak here.

10 In general, I'm in consensus with most of what's
11 been said here from the audience. I came here with the
12 intention to deed my time to speak to people who knew this
13 issue better than me so that I wouldn't be taking up your
14 time. So I would like to first register a protest for the
15 record that it seems in a democracy it would make more sense
16 that if people who knew this issue better than I would have
17 the opportunity to speak more at length. And my
18 understanding is that those people didn't know that in
19 advance they would have the opportunity to do that today.
20 So I would like just to make that protest for the record.

21 I have been very politically active. I hate to
22 think that all of my time working for this and my efforts to
23 do that would be undermined by the voting system as we may
24 be moving towards it.

25 And finally I would like to just say that I make

1 the argument with people with regard to an issue like on
2 global warming, I think it's a fairly good argument, and
3 that is if we were to assume a person who is on the other
4 side of the issue saying that global warming is not an
5 issue, that let's say they're right and we don't take the
6 time to focus on global warming to do the things that we
7 need to do to deal with those issues. And if they're right,
8 then maybe we've wasted some time, but on the other hand, if
9 global warming is an issue and we take it to heart and we
10 deal with global warming, then we've dealt with that issue
11 in the way we may need to.

12 And I'm just trying to draw a parallel to that
13 with this issue of the voting, the Diebold machines, et
14 cetera, to say that if we are cautious and we look at these
15 issues carefully and we don't make the mistakes, then we'll
16 be happy that we have reviewed everything carefully and
17 moved in a safe manner.

18 CHAIRPERSON WOOD: Thank you, Mr. Dillon.

19 MR. DILLON: Thank you.

20 (Applause.)

21 MR. ELLSWORTH: My name is Tom Ellsworth, and I'm
22 from Oakland, California. Thank you for holding this Panel
23 today.

24 I have concerns. One of my concerns is that as a
25 voter my voice not be heard. And when we're moving into

1 this age of technology, it seems as if there is a tremendous
2 opportunity for voices like a voter's voice not being heard
3 with this technology, and, in fact, to be fraudulently
4 stolen.

5 So when it comes to using wireless pieces within
6 the technology, it seems to me that it's too advanced to
7 what our systems of regulating are made for. When it comes
8 to modems in the precinct that send out from either a
9 machine or to get from the precinct to the mainframe
10 computer, I'm concerned about the security, and anyone who
11 works on the internet is also very concerned with security
12 around these issues. And it seems like on my computer there
13 is always a new virus out that I have got to watch out for,
14 and I think that is a real consideration here on this issue.

15 These things aren't ready, it's not ready, it may
16 never be ready, but right now it seems clear that it's not
17 ready. So as a voter, I really want, and as an American and
18 as someone who lives in a democracy, I need the security
19 that is offered by a secure voting system. And that paper,
20 if it looks like we're in the stone age or going slow, I
21 would rather count my votes slowly and be sure of it than to
22 count it through a virtual world of internet and on a
23 machine that can have a card exchanged that might not carry
24 my vote. I would much rather do it simply in a way that can
25 be verified and with great clarity.

1 So I'm asking you to consider this and to step
2 away from the proprietary software and move towards things
3 that we can verify clearly.

4 (Applause.)

5 CHAIRPERSON WOOD: And following the next speaker,
6 if we could have Tom Farrow, Carolyn Fowler, Marinell Fuller,
7 please. Thank you.

8 MR. FARROW: I'm Tom Farrow.

9 The issue is trust from the voter casting the vote
10 into the vote total. Currently the chain of trust dies in
11 the Diebold machine, and I believe there is no way to verify
12 that beyond the machine, like beyond any machine.

13 Open source helps a lot because you're putting
14 your trust into a publicly vetted product. And there are so
15 many people out there willing to look at that and that are
16 capable of finding the flaws in those systems that you
17 have -- and that verifies that, but you still have a
18 hardware issue below that. Because the firmware would have
19 to be available and I'm not a hardware person. But probably
20 you might even need a mask for the chips, I don't know. I
21 don't know how you could verify all that.

22 But in any case, there's a story that might be
23 useful to you. I tried to find it during the break, but I
24 couldn't, I talked to some of the people and didn't get any
25 help there. But open BSD is a very secure operating system.

1 It's had one security flaw in eight years. And the US Navy
2 took open BSD, their security experts took open BSD and
3 tried to harden it even further, then they invited, I can't
4 remember the individual, to try and break in from the open
5 BSD project. And he did so right away, I mean he got right
6 in. And what he had done is, there is a whole chain,
7 besides the software, you need to know what the compiler,
8 which basically the compiler is a translator that turns
9 source code into machine code.

10 CHAIRPERSON WOOD: Thank you, Mr Farrow, your time
11 is up.

12 MR. FARROW: And anyway, he inserted a small few
13 lines of code into compiler, which every time -- they
14 verified their own compiler, but every time they recompiled
15 the compiler, this little piece of code got reinserted in
16 there. So he was always able to get in and they couldn't
17 find the security hole.

18 (Applause.)

19 CHAIRPERSON WOOD: Carolyn Fowler.

20 MS. FOWLER: Good afternoon. Thank you for this
21 opportunity. My name is Carolyn Fowler, I am the Election
22 Board Chair for the Los Angeles County Democratic Party
23 Central Committee. But I want to talk a little about my
24 technical background. I worked 28 years at AT&T basically
25 in the technical side of network systems.

1 And I guess what strikes me, and even reading your
2 staff's report, and I know they worked very hard and had to
3 listen to a lot of data, but when they say that this system
4 is at 1990 voting system standards, and we know that without
5 qualification of 2002 voting system standards, no Diebold
6 voting system really should be certified for use in
7 California.

8 And I want to talk a little about three things
9 basically I said, accountability, transition and quality.
10 The quality piece is we had several times the fortune of
11 winning the Malcolm Baldrige Award, and part of that is a
12 quality model process. And I think there should be a
13 quality model process for voting systems.

14 I know, Mr. Kercher, it's a long day, but I would
15 appreciate your attention, sir.

16 There needs to be that quality in effect and this
17 system today even though you're admitting it doesn't meet
18 the standards should not be certified. That would never get
19 a Malcolm Baldrige quality award, and if you don't know
20 what that is, look it up.

21 Accountability. And I trust each of you is here
22 to ensure that we do have adequacy, integrity, et cetera, in
23 our systems. I believe that. Okay. With an eye on
24 accounting we got an IFP, we belong to like 30 different
25 organizations. We're looking at -- this is when I get to

1 the transition. There are other options today, I think we
2 need to take an opportunity to look at them. I know people
3 view us as a threat. My county registrar is here, I really
4 want to work with her, we want to work with you. We're
5 working --

6 CHAIRPERSON WOOD: Thank you, Ms. Fowler.

7 MS. FOWLER: Can I just finish this sentence?

8 CHAIRPERSON WOOD: Yes, please.

9 MS. FOWLER: We're working with the Election
10 Committee seeing what they're spending in the state, and I
11 think there are some other solutions that we need to pursue
12 then.

13 Thank you so much for your time.

14 (Applause.)

15 CHAIRPERSON WOOD: Ms. Fuller, Robin Gibson,
16 please, Barbara Goodwin, Sharon Graham.

17 And while we just have a moment here, again, if
18 you do not complete comments you're making or you have some
19 written document, remember there is a two-week period and
20 you can submit anything in writing. So anything you have to
21 say will be part of the review process that the Secretary of
22 State is going to undertake following the conclusion of this
23 meeting. Thank you.

24 MS. GIBSON: Robin Gibson from Los Angeles.

25 I would just like to use my first 30 seconds and

1 then yield my minute and a half to Bev Harris.

2 CHAIRPERSON WOOD: No, ma'am, remember it's your
3 two minutes.

4 MS. GIBSON: I am going to yield to Bev Harris.

5 CHAIRPERSON WOOD: We have to move things along,
6 folks, we've got a huge stack of folks who need to talk. So
7 please, you have two minutes, ma'am.

8 No, we're not yielding time. Again, so we're
9 clear on that, we can't do that.

10 So, you have two minutes, ma'am, and please use it
11 if you like, but if you don't like, then we have other
12 speakers.

13 Ma'am, your two minutes is running. Please, we
14 have a full audience here that needs to speak.

15 MS. GIBSON: Okay. I am just going to say one
16 small thing which is that why would you certify Diebold when
17 they haven't even provided the tablets yet, according to Dr.
18 Freeman. So this hearing really shouldn't even happen yet,
19 all of the information of the tests aren't here, and that
20 has to happen before we can have this hearing. One of the
21 procedures for the approval of the system, this hasn't
22 happened yet.

23 According to the June status report to you from
24 Mr. Freeman, which is right outside on the table and it
25 says, final test reports for this version have not been

1 received from either the hardware or the software ITAs
2 verifying software review and system integration testing.
3 So there's no reason to approve it, there are a thousand
4 reasons not to. There are millions of Americans who don't
5 trust this company. We know that it's not safe, we know
6 it's not secure, and the information hasn't even come in
7 yet.

8 So this hearing should happen after all of the
9 information is in, according to your own rules. You need to
10 obey your own rules at the very, very least, there would be
11 no reason for you not to.

12 (Applause.)

13 MS. GOODWIN: Hello, my name is Barbara Goodwin,
14 I'm from Mountain View, California, representing myself.

15 AccuView printer module is inadequate. The staff
16 report describes a bar code on the printed voter-verified
17 ballot receipt, it describes the bar code being there for
18 tabulation in an audit. That raises two red flags. What
19 information is on the bar code and can it be used to
20 identify an individual voter's identity in violation of
21 federal and state law. It would violate both the letter and
22 the spirit of the law requiring a manual audit to check the
23 accuracy of the automated count using a scanning device
24 reading a bar code.

25 I would request that the procedures for use

1 require that the bar code not be used in any of the required
2 one percent manual audits or any recounts. That audit must
3 be conducted by physically counting by hand the paper record
4 of the voters' intentions. I would also request that the
5 bar code not contain any information that may be used to
6 identify an individual voter.

7 The physical properties and characteristics of the
8 voter-verified ballots are deficient in substance and
9 design. Thermal paper itself is very susceptible to damage
10 from heat or humidity. Anyone who has had a thermal paper
11 fax machine knows that. In addition, the paper and the
12 printer card are too slow to meet the requirements of the
13 standards established in California for AVVPAT. The
14 AccuView system as currently designed does not meet those
15 requirements.

16 I would urge that the Diebold TSx with AccuView
17 printer module not be certified for use because the printer
18 does not meet the requirements of the law, is not voter
19 friendly, and has already shown a dispensation for failure.
20 I do not support the use of any thermal roll type of voter-
21 verified ballot receipt for multiple reasons.

22 CHAIRPERSON WOOD: Thank you, ma'am.

23 (Applause.)

24 MS. GRAHAM: Sharon Graham from Sacramento.

25 CHAIRPERSON WOOD: Following Ms. Graham, I'm going

1 to get this name wrong and I apologize, but Kathy Guruwaya.

2 MS. GURUWAYA: Guruwaya, yes. I would like to
3 yield my time to Bev Harris.

4 CHAIRPERSON WOOD: And following Ms. Gururway is
5 Steve Harness.

6 MS. GRAHAM: Sharon Graham, Sacramento.

7 It seems to me that these machines are commendable
8 for one reason, I'm afraid I wouldn't applaud it though
9 because it's predictability. I've worked in computers a
10 long time ago and they required a full floor of an office
11 building and air conditioners. At the time we had a phrase
12 for bad data, I don't know that it's still used, but we
13 called it GIGO, garbage in, garbage out.

14 Now, these companies have put forward a very
15 inventive application or innervation of this concept. They
16 want to take out sunny California cuisine, which is not
17 garbage, and turn it into a toxic waste dump, like Florida
18 and Ohio.

19 Paper ballots are not predictable. Democracy is
20 messy, loud, raucous, unpredictable when it works right.

21 (Applause.)

22 MS. GRAHAM: Democracy is good. Paper ballots are
23 good. Please don't turn our state into a toxic electoral
24 wasteland.

25 Thank you.

1 (Applause.)

2 CHAIRPERSON WOOD: We did have Kathy --

3 MS. GURUWAYA: I yielded my time.

4 CHAIRPERSON WOOD: I'm sorry, we're not yielding
5 time.

6 Steve Harness, followed by Dave Heller, followed
7 by Joseph Holder.

8 MR. HARNESS: I'm from Beautiful Upper Lake,
9 California in Lake County. I'm an expert voter. I'm 55
10 years old and I've voted in every single federal, state, and
11 local election for which I was qualified since I became
12 eligible at age 21.

13 My reason for voting is to influence and direct
14 the policies of the society in which I live, and to provide
15 the most beneficial arrangements for my country, my
16 community, and my family.

17 All right. I vote because it is a fair and
18 equitable means of expressing my will. To this date, I have
19 been satisfied that my vote has been counted in each
20 election. Voter confidence in any system of recording
21 election results is critical to the function of our
22 democracy. I have absolutely no confidence that any of the
23 electronic vote recording machines is free from covert
24 malicious programming that alters the registering of my
25 vote. Their lack of transparency and the possibility of

1 undetectable alterations of my vote, the suspicion of which
2 cannot not be allayed by any assurance leaves me to urge
3 that these not be certified by the state of California.

4 Thank you.

5 (Applause.)

6 MR. HELLER: Hello, my name is David Heller, and I
7 was the campaign coordinator for the Measure I campaign in
8 Berkeley which brought instant runoff voting, is trying to
9 bring instant runoff voting to that city. And we're in
10 Alameda County.

11 Alameda County purchased Diebold equipment some
12 years ago and this was Diebold's response to their ability
13 to do the rank-choice ballot. And I have it, they said,
14 quote, the AccuVote TS can easily be programmed for
15 preferential voting, which includes instant runoff voting.

16 First, Diebold offered to develop IRV for the
17 county for almost \$2 million. After a lot of public
18 dissent, they recently dropped their price to just under \$1
19 million. However, this was Diebold's response to San
20 Diego's recent RFP asking for instant runoff voting, and I
21 quote, does instant runoff voting meet this requirement, yes
22 or no. Response, yes.

23 DSI is the only vendor to accomplish IRV, instant
24 runoff voting, using an electronic system. IR voting must
25 be implemented both on a DRE and the optical scan components

1 of the total voting system. While most vendors will be able
2 to implement IR on a touchscreen DRE unit, DSI is the only
3 vendor today who has implemented IR proportional voting on
4 an optical scan ballot. Diebold is also the only vendor
5 certified in California that has actually run an IR election
6 and has been doing so since 1995 in Cambridge,
7 Massachusetts.

8 Diebold Election Systems will provide IR voting
9 based on specific algorithms for counting supplied in San
10 Diego County. Presently, the Diebold optical scan ballot
11 provides the most flexibility for IR voting to absentee
12 optical scan ballots.

13 CHAIRPERSON WOOD: Thank you, Mr. Heller, your two
14 minutes are up.

15 MR. HELLER: Can I just have one more sentence,
16 please?

17 CHAIRPERSON WOOD: Yes.

18 MR. HELLER: An example of the Cambridge IR ballot
19 has been included with this proposal. The AccuVote TS unit
20 has this capability today, this has been demonstrated,
21 although none of the DSI touchscreen counties presently
22 using the AccuVote TS have implemented IR voting.

23 CHAIRPERSON WOOD: Thank you.

24 MR. HELLER: So they are right.

25 CHAIRPERSON WOOD: Thank you.

1 (Applause.)

2 CHAIRPERSON WOOD: Joseph Holder. And following
3 Mr. Holder, please, Karen Inderland, Elizabeth Izzo, and
4 Michael Jay, please.

5 MR. HOLDER: Good afternoon. I would like to
6 bring the Panel's attention to page 20 of the staff's review
7 report. I found a paragraph at the bottom of that page that
8 really stuck out at me, because I have been testifying here
9 since October 9th of 2003, when they first tried to get the
10 TSx through. They inserted a paragraph in there that they
11 were able to use the TSx machines that were illegally sold
12 and delivered to San Joaquin, San Diego, and Kern County in
13 2003 prior to their being approved for use in California.
14 They refer to a, quote, non-AccuView configuration that does
15 not include the AVVPATs.

16 First, let's point out that neither in the federal
17 qualification testing nor in state testing nor in the
18 application itself is there any reference to a quote, non-
19 AccuView configuration. This paragraph appears to be a
20 disingenuous way of getting the illegal TSx machines already
21 in place to be used for the special election.

22 It is noteworthy that the staff report refers to
23 the June 15th, 2004, AVVPAT standards, not the January 21st
24 standards. The January 21st standards state, it shall be
25 effective beginning January 1st, 2005, for all DRE voting

1 systems certified on or after that date and beginning
2 January 1st, 2006, for all DRE voting systems. They are
3 trying to grandfather a voting system that has already been
4 decertified.

5 This application from Diebold calls the TSx with
6 AccuView printer a new system. The decertification order
7 requires that. State law forbids counties from purchasing
8 or contracting for a voting system that was not state
9 approved. They did both in the spring of 2003, long before
10 the conditional certification. That certification was
11 rescinded because Diebold lied to the state. If this
12 application of voting systems certified for use in
13 California is guilty of a new system certified in 2005.
14 That means it must be used as a whole, including the
15 AccuView, of a challenged elections division to come up with
16 any legal authority to grandfather in the decertified TSx
17 voting system.

18 CHAIRPERSON WOOD: Mr. Holder, your time is up.

19 MR. HOLDER: Can I finish?

20 CHAIRPERSON WOOD: Yes.

21 MR. HOLDER: I have read the decertification
22 directive and I find no reference to the possibility that
23 the TSx system conditionally approved on November 30th,
24 2003, could get a second chance.

25 I will skip the last part.

1 CHAIRPERSON WOOD: Well, yes, actually if you
2 could just wind it up now, please.

3 MR. HOLDER: I challenge this particular paragraph
4 regarding its legality. It appears to be designed to rescue
5 local election officials who were lured by the promises of
6 Diebold to purchase unapproved voting systems contrary to
7 state law.

8 (Applause.)

9 MS. INDERLAND: Hi, my name is Karen Inderland and
10 I'm with Citizens Act of Los Angeles, and then I'm also a
11 member of the California Election Protection Network. And
12 we're very different organizations that have come together
13 to address voting in California.

14 And what I would like to say today is -- I'm going
15 to use one minute of my time on Number 1, then I would like
16 to use the second on Number 2.

17 Well, I don't understand why Diebold is even being
18 considered today. I do have two different pieces of paper
19 I'm going to leave with you, but one of them is just talking
20 about the California Election Code Number 19214.5, in which
21 it states that due to Diebold's violation of subsection A by
22 their fraudulent sale of claimed federal qualification
23 status and their sale and use by 17 California counties of
24 said fraudulently uncertified and switched software, we
25 demand that any Diebold equipment not be certified for use

1 in California, and, furthermore, as per subsection 3, would
2 be prohibited from doing business in California for three
3 years. That's on our California Code, that's not making it
4 up. We abide by the rules, but the rules are not being
5 abided by the rulemakers.

6 (Applause.)

7 MS. IZZO: My name is Elizabeth Izzo and I'm here
8 from Oakland, California on behalf of myself and all other
9 voters who could not be here today because of work or other
10 reasons.

11 I'm here because I'm very afraid of what's going
12 on in our country. I urge you to consider very carefully
13 what is happening to our country, what is happening. I'm a
14 proud citizen of the United States of America and I am
15 terrified at what is happening to our country and to the
16 credibility of our democracy. We are supposed to -- we're
17 going around the world telling other people what to do and
18 we can't even have legitimate voting in our own country. If
19 you want the Republican party to stand up for democracy,
20 then please do not allow this electronic voting to continue
21 in our country.

22 Thank you very much.

23 CHAIRPERSON WOOD: And following this speaker,
24 we'll have Christopher Jerdonek, Cynthia Johnson, please,
25 and David Joki.

1 MR. JAY: Hi, Michael Jay, I'm on the Coordinating
2 Committee of SoCal Grassroots, which numbers 17,000 people.

3 Based on what we've heard about Diebold today, I
4 think it would be good to review two items in the staff
5 report. Page 8 says that the system we use should be free
6 from the fraud inclination. Page 10 says that any system
7 that is valid should increase voter confidence.

8 The first thing I would like to say about that is
9 that you do not increase voter confidence by redacting a
10 report.

11 (Applause.)

12 MR. JAY: Similarly, based on what we've heard
13 about Diebold, what we know about Diebold, what you know
14 about Diebold, I find it surreal that we would still
15 consider them, even based on the staff's work shown in this
16 report. The only changes that they show that they have made
17 or investigated is regarding the cards, which is making sure
18 that there are two different encryption systems for the two
19 cards, the administrator and the user. Beyond that, they
20 simply say the rest of the system is as secure as the
21 previous Diebold systems. That's what the report says on
22 page 8, the rest of the system is as secure as previous
23 Diebold systems, which means older Diebold systems.

24 To my mind, and I think most of the people you've
25 heard, the idea of the Diebold system is not synonymous with

1 security. I think you need to understand that the basic
2 thing about any of these systems by any company, if it's
3 proprietary software and you allow maintenance workers to
4 come in and change things, and we count our maintenance
5 workers, it's not a secure system.

6 The state got burned by Enron, and none of you
7 would think or suggest that if Enron was still in business
8 that we bring them back and do business with the state of
9 California.

10 (Applause.)

11 MR. JAY: I would say to you to think about this
12 question seriously, a personal question, I wish I could ask
13 the question of the Panel and hear your answer. If Diebold
14 was a company which made software for the jets that you use
15 to fly across this country, would you fly on that jet?

16 (Applause.)

17 MR. JERDONEK: My name is Chris Jerdonek, I'm
18 representing Fair Vote.

19 I just want to say a few quick words about rank-
20 choice voting. Five years ago in May 2000, Diebold told
21 Alameda County, well, they were then called Global, that
22 they were the only company that could now conduct rank-
23 choice voting elections. And five years later, just a month
24 ago, they told Alameda County that they can't do it for
25 another three years and it's going to cost another million

1 dollars. And this is not a problem that's unique to Alameda
2 County, there are other counties in California that are
3 trying to conduct rank-choice voting elections. In counties
4 like Los Angeles, El Dorado, Yolo, and Humboldt are trying
5 to negotiate individually with these vendors.

6 So my advice to you and to help the people of
7 California is if you Panel could construct their Technology
8 Advisory Board to weigh the standards of rank-choice voting
9 elections in California, and also to possibly consider
10 making a requirement of vendors to be ready for rank-choice
11 voting elections. It's a reform that a lot of voters in
12 California are excited about and it would really help
13 democracy for you to take that step.

14 Thank you.

15 CHAIRPERSON WOOD: Thank you.

16 (Applause.)

17 MS. JOHNSON: Cynthia Johnson. I've already had
18 my time, but I truly wish that Bev Harris could speak for
19 us.

20 CHAIRPERSON WOOD: David Joki. Marc Keenberg,
21 please, Mimi Kennedy, Carolyn Koestel.

22 MR. KEENBERG: I'm Marc Keenberg from California
23 Election Protection.

24 We're here today to protect and defend the
25 sanctity of the vote. It's up to you to protect it and make

1 sure that it survives, if you don't, it's gone.

2 Electronic voting is deregulation of the election
3 integrity and that's what today is all about. I have been
4 sitting here today and I'm really astounded and offended by
5 the contemptuous attitude of some of the ROVs that we've
6 seen. It's their job to serve the needs of election
7 integrity and not the God, false God, of expediency.

8 As far as the software that goes into the
9 machines, I'm a race car fanatic and in racing, race cars
10 have to be submitted prior to a race and after a race for
11 tech inspection, and if they don't adhere to the rules,
12 they're disqualified and points are taken away. That's not
13 done with electronic voting machines. When we go to those
14 polls, we don't know what that software is. It could be not
15 even similar to what's in the escrow accounts. We don't
16 know if it's counting our votes, we don't know if it's
17 tabulating them, and they're not checked and they're not
18 inspected, and that's a serious flaw.

19 Also internet and wireless connectivity is not to
20 be permitted, it undermines and destroys election integrity
21 and we cannot have it in LA County. The ROV in LA County
22 wants to put wireless connectivity on the precinct
23 tabulators and it's just not something to be tolerated.

24 Further, Diebold, according to Section 19214.5
25 should be banned for three years from doing business in

1 California for fraudulently stealing, almost stealing, from
2 19 counties by the sale of uncertified equipment through
3 misrepresentation. And we're asking you to ban Diebold, not
4 just to deny them certification, but to ban them outright
5 from doing business in California.

6 (Applause.)

7 MS. KENNEDY: Hi, my name is Mimi Kennedy. I'm
8 from Los Angeles. Progressive Democrats of America is my
9 affiliation, but my Republican lawyer father is on my
10 shoulder reminding me that he taught me about fraud in
11 elections, and I do believe that we all want to preserve our
12 democracy. I believe that.

13 I think this is a race between education and
14 ignorance. I believe that we are being bullied as the state
15 of California, a little bit by this HAVA deadline, and by
16 the law, and I would like to see that dealt with. I think
17 we should deal with that.

18 We learned what happened when you exploit the
19 ignorance of the state with deregulation. It was incredibly
20 costly for our state and we absolutely cannot have a
21 situation like that. And I know you as public officials
22 don't want to get us in there.

23 I think this redacted report also makes me think
24 that perhaps legal arguments. We have been piling on one
25 particular company today and I know that they might cry

1 victim and we are being discriminatory because they have
2 been convicted of nothing, but I think we ought to take this
3 off of the legal to call it more medical. This is the body
4 politic and when you have a medical checkup, it's not the
5 doctor accusing you of having cancer, the doctor is wanting
6 to make sure you're well. And the doctor needs to see the
7 human body, the insides, and the doctor understands what
8 that looks like.

9 We could solve this problem with open source
10 software. So I would like to see us go to that and not be
11 bullied by this deadline when we spend a lot of money on
12 voting systems.

13 We would need procedures that were more secure,
14 even if we got open source software, and I think we should
15 save some HAVA money for looking at procedures and for
16 better training of our polling procedures.

17 For the meantime, I think that I have seen a good
18 machine, the AccuMark, it did not tabulate, but it produces
19 a new ballot. For instance, in LA County, it means we'll
20 need a new tabulator. Right now we have something that is,
21 I understand, open source software and it could be
22 retrofitted to read that ballot.

23 I think we have to look at transitional modes for
24 all the counties. I think we have to resist being bullied
25 by vendors into buying their wares. I think we have to

1 resist their argument that innocent until proven guilty
2 gives them the right to sell us anything and get us into
3 another situation where ignorance has led us into a costly
4 catastrophe for the state of California, and more
5 importantly, for our democracy.

6 Thank you.

7 (Applause.)

8 CHAIRPERSON WOOD: Mark Konkler. Dan Kyson,
9 please, Francis Lane, and Paula Lee, please.

10 MR. KIRK: There is one K in there that you didn't
11 mention, Richard Kirk.

12 MR. KYSON: Good afternoon, everybody, it's been a
13 long day. My name is Dan Kyson, I'm the Governmental
14 Affairs Director for the California Council of the Blind,
15 the largest advocacy organization of blind and visually
16 impaired consumers in California. We have 40 chapters
17 throughout the state of California. We're affiliated with
18 the American Council of the Blind. I also was honored to
19 serve on the Yolo County Voter Technology Advisory Committee
20 with Clark Oakley. So that was an awesome experience.

21 Anyway, the California Council of the Blind, CCB,
22 found the Diebold AccuVote TSx system, we found it fairly
23 accessible to blind and visually impaired voters. Many CCB
24 voting advocates within our organization basically they
25 liked the keypad configuration, they found that the audio

1 was highly configurable. They liked the flexibility of the
2 machine's ability to be used as a laptop or on a table top
3 as it would serve people with physical disabilities. We
4 were disappointed in the lack of the sip-and-puff feature.
5 We found that the audio instructions were very clear and
6 easy to read.

7 However, although the paper trail component has
8 magnification for visually impaired voters, there was not
9 speech verification of the ballot, and we understand the
10 issues related to recount and all that. But partial access
11 is no access. So for that reason and some of the reasons
12 expressed today, we urge this Committee not to certify the
13 Diebold product.

14 Thank you very much.

15 (Applause.)

16 MS. LANE: Good afternoon, Gentlemen, my name is
17 Francie Lane and I represent myself, no one else but me.

18 I have voted in every election in city, counties,
19 state and national for 39 years. I never miss an election.
20 I never vote by absentee ballot, I enjoy going down to my
21 precinct and voting and putting my ballot in that box. It's
22 personal with me. My 4th great-grandfather helped write the
23 Constitution of the United States of America and it's real
24 personal with me.

25 I have very little confidence in touching the

1 screen and thinking that that vote for that individual that
2 I have chosen is going to be transformed into the vote
3 tabulation at the end of election night. I have no
4 confidence in electronic screen, touchscreen voting.

5 When I came down here I thought I could listen and
6 learn a great deal today by listening to experts. And what
7 I faced this morning was an opening comment written by our
8 Secretary of State Bruce McPherson as read by our Chairman
9 Mr. Wood here.

10 CHAIRPERSON WOOD: Well, actually, I wrote the
11 statement. Secretary McPherson didn't write it.

12 MS. LANE: Oh.

13 CHAIRPERSON WOOD: Well, I'm conducting the
14 meeting on behalf of the Secretary of State as the
15 Undersecretary, and that's why we're having this information
16 gathering meeting.

17 MS. LANE: Well, then I can tell you, I'm
18 extremely outraged by those political comments.

19 (Applause.)

20 MS. LANE: And I will have to change my comment
21 because I really thought it was being directed at Secretary
22 of State McPherson and I thought this public hearing had
23 been hacked by a political hack.

24 And I will finish my comments by saying that a
25 contractor in construction, as I've seen in contracts with

1 the State of California, if they're found to be in violation
2 of those construction or the state laws, they're barred from
3 being on any future state contracts. And the scandal-ridden
4 reputation that Diebold has in this day in California, as
5 well as across the nation, should certainly bar them from
6 getting on any electronic voting equipment in the state of
7 California.

8 Thank you.

9 CHAIRPERSON WOOD: Thank you.

10 (Applause.)

11 CHAIRPERSON WOOD: Following the next speaker, I
12 did have cards handed, Dr. Richard Kirk and then Diana
13 Madoshi, and Conny McCormack, please.

14 MS. LEE: Good afternoon. Paula Lee, President of
15 the League of Woman Voters of El Dorado County. I also
16 served on the Voting and Equipment Panel for our county.

17 We are currently in El Dorado County in
18 negotiations with Diebold to purchase their optical scan
19 equipment. And the League of Woman Voters of California,
20 our statewide organization, supports instant runoff voting
21 ranked ballots, like was used in San Francisco last
22 November.

23 We in El Dorado County want to implement the
24 system as well in order to guarantee that we can have a
25 majority winner in our local elections without a second

1 runoff expensive election. We're currently unable in these
2 negotiations to get Diebold to give us a price to make their
3 equipment compatible with instant runoff voting. While they
4 have stated in other proposals that their equipment, both
5 optical scan and touchscreen, is currently capable of
6 supporting instant runoff voting. In fact, I just heard
7 today from a couple speakers in other counties that they had
8 actually said they are certified to run a ranked ballot
9 election.

10 Several months ago your Panel which I know was
11 several different faces, so I think three of you at least
12 are new, correct?

13 PANEL MEMBER DANIELS-MEADE: Yes.

14 MS. LEE: This other Panel assigned your Tech
15 Group the task of developing new standards for instant
16 runoff voting, so vendors would have something to go by. I
17 too am asking you to move very quickly to develop these
18 standards so that vendors are unable to stall development
19 and manipulate the cost to counties. We're the taxpayers
20 and we're the voters, and we are feeling manipulated in El
21 Dorado County.

22 (Applause.)

23 DR. KIRK: Mr. Chairman, Panel Members, I'm Dr.
24 Richard Kirk from Sonoma. I'm a psychiatrist and I consult
25 with businesses, communities and organizations on their

1 health and integrity.

2 I'm concerned about integrity here. Helping
3 communities require citizen participation. In order for
4 that to happen, healthy communities need to have a healthy
5 system of voting, one with integrity. Integrity requires
6 honesty, transparency, and accountability. Healthy
7 communities have people who vote, corporations don't vote,
8 governments don't vote, machines don't vote. People vote.
9 In order for the people to hold our people's government
10 accountable, and the integrity of our voting system, we only
11 have two possibilities. One is by voting, the other is by
12 revolution. Now, how many people want to have a healthy
13 voting system?

14 (Applause.)

15 DR. KIRK: How many people want to have an
16 unhealthy voting system? Nobody.

17 Healthy voting demands that the people are
18 counting the people's votes, not electronic machines.

19 Now, take a moment and picture for yourselves your
20 personal vote being counted by your computer and the
21 confidence you have in the e-mail coming up on your computer
22 as to whether that is spam, a hacker, or whatever on your
23 computer. Now, picture your computer counting your vote,
24 it's almost impossible to do that. Next, picture your next-
25 door neighbor or the person sitting to your right counting

1 your vote. You can do that very easily. So it's up to you
2 to support healthy voting and people should count the
3 people's vote.

4 (Applause.)

5 MS. MADOSHI: Good afternoon. My name is Diana
6 Madoshi and I'm from Rocklin, California.

7 I have voted in every election since I have been
8 able to vote. I'm here representing myself and the
9 ancestors that I've had that died and fought to get the
10 right to vote and have it counted.

11 (Applause.)

12 MS. MADOSHI: I felt robbed. In 2004 I felt our
13 country being robbed again. And I'm here because I do have
14 a bias. I have a bias when African/American people had
15 worked so hard to get the right to vote and what happened in
16 those sections of our country. And I'm here because even
17 though I don't have much faith in this system, I refuse to
18 give up.

19 (Applause.)

20 MS. MADOSHI: I feel that I came here, I wanted to
21 learn something. And what I am learning is that I demand, I
22 will not give up, but I want the Panel to not certify this
23 company that has caused so much grief with our electoral
24 system. I want you the Panel to own up to this dream that I
25 had when I came to California, and the opportunities that we

1 had in California, and to not be just thought of as some
2 flaky place that the citizens don't have any sense in how
3 they vote.

4 I am here because I want you the Panel to do the
5 right thing. You know the laws. Everybody has spoken very
6 eloquent about it, so public officials, do your job. Give us
7 the integrity of our vote and you will be rewarded with
8 support. But if you don't give us the integrity of our
9 vote, we and others will not shut up and we will not sit
10 down.

11 Thank you.

12 (Applause.)

13 CHAIRPERSON WOOD: All right, following this
14 speaker, Bud McKinney, Jillian Morrissey, and Meave
15 O'Conner, please.

16 MS. MCCORMACK: Good afternoon, Panel, and thank
17 you for the opportunity to speak. I'm Conny McCormack,
18 Registrar and Recorder for Los Angeles. And I'm also the
19 President of the statewide association of county clerks and
20 registrars.

21 I would like to make a few comments regarding, as
22 we've just heard, the vilification of the registrars in this
23 room, many of whom are elected by the people. We certainly
24 are appointed by people, and some of us are elected by people.
25 And we conduct our election processes in the open with those

1 people, all of us do. Our processes by state law are open
2 and we welcome that.

3 Indeed, in our request for a proposal process in
4 Los Angeles County, it's been so open that we had many
5 individuals from the citizenship come into our
6 demonstrations, many of whom have been in our room today.
7 So I think that we need to keep that in mind that we have an
8 open process.

9 Also, we're all confronted with, as you know,
10 having to purchase voting equipment that is compliant with
11 federal and state law by January 1st, 2006. That's a
12 requirement in the law we're all trying to meet and we have
13 to meet. So we need to do that, we need to have voting
14 equipment in order to do that, so that's an important point.

15 I'd also like to hold one minute of my time in the
16 event that anyone in the room, someone specific who has gone
17 to my Board of Supervisors in a public meeting and to the
18 Alameda County Board of Supervisors and used my name and
19 questioned my ethical integrity. I would like to hold a
20 moment to respond to that should that occur today.

21 Thank you very much.

22 (Applause.)

23 MR. MCKINNEY: My name is Bud McKinney, and I'm a
24 voter.

25 Is there anybody in this room that can't admit

1 that there was a controversy in Ohio last November? And is
2 there anybody in the room that can't admit that Diebold was
3 at the vortex of that controversy?

4 My question to the Board would be why would you
5 want to invite that problem into California?

6 (Applause.)

7 MR. MCKINNEY: Al Carpus was a bank robber, and I
8 would certainly be appalled to see him appointed as Chairman
9 of the Federal Reserve.

10 Please don't certify Diebold in California.

11 Thank you.

12 (Applause.)

13 CHAIRPERSON WOOD: Jillian Morrissey.

14 MS. MORRISSEY: Good afternoon. It's nice to be
15 here. My name is Jillian Morrissey, I'm from Oakland,
16 California.

17 California law, AB-1422 requires that the
18 accessibility feature of the AAVPAT receive a signal from
19 the AVVPAT printout and not from the DRE directory.
20 According to the staff report, this AVVPAT system produces
21 its report directly from the DRE. Consequently, the AVVPAT
22 feature will violate California law for AVVPAT as of January
23 the 1st, 2006. Any certification of this system, if
24 granted, must be limited to ending before January the 1st,
25 2006.

1 Thank you.

2 (Applause.)

3 CHAIRPERSON WOOD: Maive O'Conner.

4 All right. Jane O'Donnell, please, Chuck O'Neil,
5 Ann Privateer, please. Any of the names that I read out?

6 I'm Chuck O'Neil.

7 CHAIRPERSON WOOD: Thank you, Mr. O'Neil.

8 MR. O'NEIL: Thank you. I think this afternoon is
9 going much better. I appreciate the process that you're
10 trying to go through here.

11 My name is Chuck O'Neil, I'm the Sacramento County
12 representative for Californians for Electoral Reform. And
13 we're working in Sacramento County to bring about rank-
14 voting systems in Sacramento.

15 I would like to point out that rank-voting systems
16 are becoming more and more popular, they have asked for them
17 in San Diego, Placer County as we just heard has asked for
18 them, not to mention Berkeley, San Francisco, San Leandro,
19 and Alameda County. Those last few that even though they
20 have laws in place were unable to use instant runoff voting
21 in the last local election because the equipment is not
22 there yet. We still hear from Diebold and ES&S that, in
23 fact, they do have systems that can do that, but they want
24 to charge extraordinary prices for that. As Paula pointed
25 out earlier, the previous Panel a few months ago asked for

1 staff to develop some standards for rank voting systems.

2 Oh, I forgot to mention Davis as well, and Santa Monica.

3 Anyway, there's a lot of government entities in

4 California who are interested in initiating these rank

5 systems, they are much more democratic and much better.

6 It's unacceptable that people are being elected to office

7 with a minority vote instead of a majority vote. So I

8 encourage you -- I'm sorry to see that Diebold -- although

9 they say and even told San Diego that they've got the system

10 included in the certification. It's time to start including

11 those programs in the certification.

12 Thank you.

13 (Applause.)

14 CHAIRPERSON WOOD: Ann Privateer. And following

15 this speaker, Jan Roberts, Linda Russell.

16 Ann Privateer or Linda Russell?

17 MS. RUSSELL: Linda Russell.

18 CHAIRPERSON WOOD: All right. Thank you.

19 MS. RUSSELL: Actually I bet I can stand over here

20 and shout it down, how does that sound? It won't work? All

21 right.

22 I have a couple of questions for you.

23 CHAIRPERSON WOOD: Please say your name on the

24 record?

25 MS. RUSSELL: Linda Russell, I'm from Sonoma

1 County, and I represent only myself.

2 Is there a cost comparison between auditable paper
3 ballots using optical scanners, versus the use of these
4 machines, and if so, is it published on the website for the
5 Secretary of State's office. It would be very useful to
6 know what we're writing off on that we don't need to write
7 off on financially. So if it's out there, it should be done
8 and it should be posted so the public is aware.

9 The other thing is what happens when your
10 electricity goes out. It happened. We all know that this
11 happened. I think it was down in San Diego County. And the
12 quick answer is we don't need these machines and that's my
13 statement, we don't need these machines. There may be some
14 individuals with some kind of disability that need some kind
15 of machine, but the public generally does not need to vote
16 on such machines and HAVA does not require it.

17 Thank you.

18 (Applause.)

19 CHAIRPERSON WOOD: Thank you. Judy Schriebman,
20 Maureen Smith, Jan Roberts.

21 MS. ROBERTS: My name is Jan Roberts and I have
22 spent a lifetime registering voters.

23 One thing that I just want to bring up, I also
24 have a degree in communications studies and there's certain
25 words that communicate a whole lot more than we really

1 intend, they are very powerful, and one of those is Diebold.
2 To the average voter on the street, it means fraud, it means
3 stolen elections. It means that. And we're out there
4 trying to register these people to vote.

5 We know that we have these machines, but there's
6 always a very good chance that all this work is for naught
7 anyway. So why do we go out and volunteer all our time to
8 do this. We can't get the message of democracy across to
9 these people to take that great big risk of being called up
10 for jury duty. And the thing that I want to bring up, this
11 woman said she's not giving up. There is a lot of people
12 out there that do give up.

13 Thank you.

14 (Applause.)

15 MS. SHELTON: I would like to ask everybody to
16 please return these to the person that handed them out to
17 you.

18 CHAIRPERSON WOOD: State your name, please?

19 MS. SHELTON: My name is Judy Shelton, and I hate
20 doing this. You have no idea how I hate doing this. But I
21 am struck by one thing, and open process is one in which the
22 outcome is not a foregone conclusion. I don't feel this is
23 an open process. I would be shocked, I would throw a party
24 for a thousand people if Diebold is not certified. That's
25 how open I think the process is.

1 (Applause.)

2 MS. SMITH: Maureen Smith, Peace and Freedom
3 Party.

4 And I have to say I'm very heartened today. When
5 I first came to one of these meetings in May of 2003, I was
6 the only member of the public in the audience and I was
7 called out of order when I brought up the crimes of ES&S,
8 Sequoia. At any rate, I also want to make a statement
9 before I go into my four points. Neither I nor my
10 organization have ever received any type of compensation
11 from Diebold or any other vendor. That's a statement I
12 would like to have everyone who speaks be able to say,
13 except for the representatives of Diebold.

14 Now, my point one. Do not certify any equipment
15 and decertify current equipment or software that does not
16 cut off the ballot or provide a separate ballot to be
17 dropped into a ballot box. Having worked an election in
18 Santa Cruz County, I do trust the traditional ballot box
19 procedures, at least in that county.

20 Two, do not certify any software to be used with
21 the very hackable GEMS system.

22 Three, do not certify any precinct to central
23 tabulation modem transfer. In other words, mandate that
24 those be counted at the precinct and then taken to the
25 central tabulation place, counted obviously after the close

1 of polls.

2 Four, though criminal charges are seldom brought
3 against white collar criminals unless they reach the
4 magnitude of an Enron, the stealing of votes through
5 electronic voting may surpass Enron. We're talking about
6 billions and even trillions of taxpayer dollars
7 misappropriated due to stolen elections.

8 CHAIRPERSON WOOD: Thank you, ma'am, your time is
9 up.

10 MS. SMITH: And finally a question. How is it
11 that a representative of Diebold was able to be on Bruce
12 McPherson's transition team?

13 Thank you.

14 (Applause.)

15 CHAIRPERSON WOOD: Sharon Sonstenig, Gail
16 Sredanovic, and Richard Tamm.

17 If I've already called your name and you haven't
18 spoken, please come forward.

19 MR. TAMM: My name is Richard Tamm, I'm
20 representing myself, I live in Berkeley. I hate doing this
21 also, but I think it's time for all of us to stand up for
22 what we believe in.

23 Something I don't think was mentioned but you may
24 have heard it in previous meetings. I think Diebold and
25 ES&S came from some common companies and still share some

1 common software from years past. And I just want to mention
2 that for a number of years a man by the name of Jeff Dean
3 was considered the senior programmer for Diebold Election
4 Systems. He recently left the company and was retained as a
5 consultant. As the senior programmer, he must have been
6 responsible for a fair amount of the analysis and design of
7 the code in the Diebold DREs and vote tabulators.

8 What you may not know about him is that he served
9 almost four years in prison after being convicted in 1990 of
10 first-degree theft for 23 counts of embezzlement of more
11 than \$385,000 from the company where he was in computer
12 systems and an account consultant, according to superior
13 court records. The records statement and Dean's staff and
14 their coverup which occurred over a two-and-a-half year
15 period involved a high degree of sophistication and planning
16 in the use and alteration of records in the computerized
17 accounting system that the defendant maintained. Now, this
18 was the senior programmer for Diebold for a number of years
19 and then kept on as a consultant.

20 We've already heard about a number of university
21 level investigations by Ph.Ds, statisticians maintaining
22 that the shift in vote counts in the last presidential
23 election was so extreme in every case from Kerry to Bush
24 that they said it was so outside of the bell curve of
25 possibility that, while they didn't use the term fraudulent

1 election, they concluded further investigation was demanded.
2 I'm curious were Jeff Dean's embezzlement skills put to good
3 use by Diebold and ES&S in altering the vote.

4 I urge you to not certify these machines and
5 software if you cannot inspect all the software and all the
6 machines innards to make sure there is no wireless
7 capability. Otherwise, we have no idea what's going on in
8 them and what they can do. I've been a computer programmer
9 for over 30 years.

10 CHAIRPERSON WOOD: Thank you, sir, but your two
11 minutes are up.

12 MR. TAMM: One further thing. What is it going to
13 take for each of you to stand up for your country and help
14 us save the vote?

15 (Applause.)

16 MR. TAMM: This point of working overtime for this
17 and what is it going to take for you to stand up to
18 political pressure --

19 CHAIRPERSON WOOD: Sir, your time is up.

20 Can we have Stephanie Thomas, please.

21 (Applause.)

22 CHAIRPERSON WOOD: Stephanie Thomas, Joe Ullich,
23 Ari Vogel, please.

24 I'm sorry, it came out of order. If your name has
25 not been -- you're a little out of alphabetical order, but

1 if you would go up too, please, Ms. Quinn, and be in line.

2 Thank you.

3 MS. THOMAS: Hello, I'm Stephanie Thomas. And I
4 represent myself and all those people who couldn't come.
5 And thanks for having the Panel.

6 And I'm not technically savvy, but I think people
7 who are technically savvy and those who are not are all
8 losing faith in these elections. And to restore faith, we
9 need a full transparency where people can see that their
10 vote is counted as intended, and proprietary software and
11 votes that are hidden in a machine do not inspire this
12 confidence. Many surveys have shown that voters do not
13 believe their votes are counted accurately. Paper ballots
14 have always worked and I urge you to skip all the electronic
15 steps in the way of citizens voting. All the bells and
16 whistles and complications that we've heard today, the
17 problems with security have been pointed out, and problems
18 of privacy that are not protected with this AVVPAT where
19 votes are paper rolled that could be in order of the people
20 signing up, the person who voted could then be tracked down
21 how they voted.

22 I urge that we need a system that citizens review
23 all of the steps. With a corporate owner, we can't look at
24 the code because of trade secrets, and there is no way to
25 know if our vote is safe. I urge you not to jump in and

1 certify this system, but consider other options. The basic
2 option would be to consider paper ballot by hand. And you
3 have a deadline by January, just vote with paper and not
4 worry about all this --

5 (Applause.)

6 MS. THOMAS: Is there some reason we had to have
7 electronic. I think I've learned here during this time is
8 open source coding and the UC professor, those experts at UC
9 sound good to me, without knowing that much about it, or
10 voting by paper ballot when there's scanning and several
11 steps and different checks, various checks along the way.
12 So those are other options. So I would say that to restore
13 a vote of confidence, do not certify Diebold at this time.

14 CHAIRPERSON WOOD: Thank you. And your two
15 minutes are up.

16 MS. THOMAS: Okay. Thank you.

17 (Applause.)

18 MS. QUINN: I'm Joan Quinn and I'm testifying as
19 an expert, but I won't take much more than two minutes.

20 I'm a 58 year old retired research attorney, I
21 spent 22 years working for superior court in the area of
22 criminal law. I just want to say one thing to the fellow
23 that challenged Eve Roberson as not being an expert. She
24 was my research partner back in Ohio, we spent over a month
25 in Ohio researching election fraud.

1 As a criminal attorney, I'm convinced beyond a
2 reasonable doubt there was election fraud. There has been a
3 plethora of volumes written on election fraud and they're
4 being written now. It's proved beyond a reasonable doubt.

5 I have to make a remark about your remark, Mr.
6 Wood. I'm disappointed, I felt it was inappropriate. I
7 felt it was a political statement and this is supposed to be
8 a nonpolitical forum. I also object to the fact that you
9 didn't address the question regarding the two minutes. What
10 possible reason could you have for not allowing us to yield
11 two minutes. Two minutes is two minutes is two minutes,
12 it's not multiplied by somebody using my two minutes and me
13 using somebody else's two minutes. I would question your
14 legal authority to do that. And regardless of whether you
15 had the legal authority to do that, it was extremely
16 improper, and it didn't inspire confidence in you and in
17 this Panel. So I urge you to consider those remarks.

18 I want to tell you about being a legal research
19 attorney in criminal law for 22 years. I worked on death
20 penalty cases, matters of terrific import. Nothing was more
21 important than this. Attorneys, we have a joke saying when
22 in doubt go back to the basics. Look at the basics before
23 you jump ahead.

24 And I consult what I believe are experts, by
25 research who the experts are. I don't say that lightly that

1 my opinion and my confidence rests in Bev Harris and Black
2 Box Voting based upon the record. As it says in the Bible
3 by your deeds you shall be known. Well, Black Box Voting
4 deeds are known and Diebold's deeds are known, and that's
5 all that really should need to be said about this.

6 I concur in other statements that people are in
7 absolute awe that Diebold is even being considered. Diebold
8 had to pay out in excess of \$2 million due to a Black Box
9 Voting suit, and that wasn't because somebody said they
10 hadn't been convicted of anything. Well, not in criminal
11 court. But did they pay out over \$2 million in fines
12 because they had acted improperly. The answer is no. What
13 confidence --

14 CHAIRPERSON WOOD: Thank you, ma'am, your two
15 minutes are up.

16 MS. QUINN: No, I'm testifying as an expert, I
17 have more than two minutes.

18 CHAIRPERSON WOOD: No, ma'am, we have a lot of --

19 MS. QUINN: No, I'm not going to sit down, I'm
20 testifying as an expert.

21 CHAIRPERSON WOOD: Ma'am, sit down please. We
22 have a full audience today and they do need to --

23 MS. QUINN: I am going to speak, do not try to
24 talk me down.

25 CHAIRPERSON WOOD: We do have a large --

1 MS. QUINN: Voting machine certification process
2 has not been complied with --

3 CHAIRPERSON WOOD: Well, this is a public meeting,
4 if this is going to be in --

5 MS. QUINN: -- to FEC standards from 1990 on.

6 When I said I was testifying as an expert at the
7 very beginning, Mr. Wood, you should have told me you did
8 not expect that I was testifying as an expert --

9 (Applause.)

10 MS. QUINN: So therefore you complied and I'm not
11 going to take much more time.

12 CHAIRPERSON WOOD: Ma'am, I believe the expert
13 testimony period was before public comment.

14 MS. QUINN: Oh, really was that in -- I'm going to
15 testify. You're taking more time to argue with me than I'm
16 taking by saying what I'm going to say. And I will say it,
17 so quit arguing with me and let me say it.

18 (Applause.)

19 MS. QUINN: Voting machine certification has not
20 been complied with to FEC standards from 1990 on. How can
21 you possibly consider these machines that haven't complied
22 with FEC standards. How can we trust machines that are not
23 properly certified with secret source code. When you're
24 talking about budgetary costs, how can you justify spending
25 hundreds of millions of dollars on these machines when

1 they're untrustworthy, a company that's dirty, more than one
2 company that's dirty. They're responsible for voting
3 systems certifications.

4 Oh, what I wanted to say --

5 CHAIRPERSON WOOD: Well, your time is up. This is
6 a public meeting.

7 MS. QUINN: You talked about the propriety of the
8 former Secretary of State, I've got something to say about
9 that. But how can you talk about that when a member of
10 Diebold is now Director of Elections in the state of
11 California.

12 CHAIRPERSON WOOD: You have an opportunity to
13 submit written comments and it will be considered by the
14 Secretary of State.

15 MS. QUINN: How can you talk about believability
16 when -- responsible for voting systems certification now
17 works for ES&S as vice-president of sales. And we sent in a
18 letter from Black Box Voting dated 6/16 to the Secretary of
19 State, Mr. Diddier failed to report the hackability of the
20 ES&S system. What about the relationship of the Secretary
21 of State's Director of Elections to Diebold, and also Conny
22 McCormack, her image is used in Diebold advertising
23 material.

24 CHAIRPERSON WOOD: Ma'am, your time is up.

25 MS. QUINN: How do you explain that?

1 (Applause.)

2 CHAIRPERSON WOOD: In the course of doing the
3 listing of speakers, I have overlooked Jerry Berkman.

4 MR. BERKMAN: I'm Jerry Berkman.

5 I put a petition on the internet and we have
6 circulated, we've got 1,100 signatures against -- is the
7 microphone on? Okay. And I believe this is you're
8 certifying to certify something that is a mix of 1990 and
9 2002 standards. I believe that's illegal, and even if it
10 isn't, I don't know why we would certify anything to the
11 1990 standard instead of the 2002.

12 Some of the tests in the PDF on line were run in
13 2004. Most programmers where I worked you had to run your
14 tests currently, you couldn't take something, oh, I tested
15 it two years ago or a year ago and I'm not going to worry
16 about testing it with all the newer components.

17 With respect to the AVVPAT, I want to know how --
18 I view this as an incomplete application. How many ballots
19 fit on a roll on the AVVPAT, how hard is it for a poll
20 worker to change, are all races printed or just the ones you
21 vote in. What are the mean time to failure for the AVVPAT,
22 how many ballots on the average before it fails. And you
23 guys must have that question all the time when you're buying
24 things, the meantime to failure.

25 There is thermal paper. We're not in an enclosed

1 environment, we have to transport these ballots from here to
2 there. How long will those ballots be readable if they're
3 at 90 degrees. How many hours can they stand at 90 degrees
4 or a hundred, or some of the places in California, 120
5 degrees. It's sitting in a truck and your air conditioner
6 may fail, how long will they last and has it been tested and
7 what are the results. Will the AVVPAT, it looks like it
8 displays about ten lines at a time, I think we were under
9 the impression that the AVVPAT would show to be valid, and
10 now you could --

11 CHAIRPERSON WOOD: Your two minutes are up, Mr.
12 Berkman, thank you.

13 MR. BERKMAN: And then you could --

14 CHAIRPERSON WOOD: Mr. Berkman, your time is up.

15 MR. BERKMAN: And then you could vote yes or no on
16 the AVVPAT after seeing it printed. But if it only
17 displayed 8 lines at a time, then you can't see your ballot
18 before you vote yes or no, because you only get two times
19 before you strike out and it accepts the third.

20 And lastly, I state that continual arrogance,
21 calling Professor Ruben's study a homework assignment,
22 sending us a preproduction version of the AVVPAT before for
23 testing, and things like that, and in these hearings last
24 year, it is documented and they did not deny that they were
25 running uncertified software on California machines.

1 CHAIRPERSON WOOD: Mr. Berkman, I mean your time
2 is up.

3 MR. BERKMAN: Section 19245 of the California
4 Election Code, Secretary McPherson can ban Diebold from
5 doing election business in California for three years and
6 fine them \$10,000 per machine which would get Alameda County
7 \$20 million and get the state \$20 million just from Alameda
8 County.

9 (Applause.)

10 CHAIRPERSON WOOD: Mr. Vogel. All right. If we
11 could have Robert Whitehead, Charlene Woodcock, Jim
12 Woodward.

13 MR. WHITEHEAD: My name is Robert Whitehead, I'm a
14 school teacher in Sacramento.

15 I spent my Christmas vacation going to Ohio
16 because I felt there was some problems with the election. I
17 found out that there was definitely election fraud in the
18 state of Ohio. This shows that these precincts were using
19 Diebold machines, they did have verifiable paper trails.
20 They had PLS machines that were used that were available.
21 And so I would like very much for the Panel to view this.
22 It really -- it opens your eyes.

23 And then finally I would like to say that every
24 vote needs to count, every vote needs to be counted
25 accurately. And from what I'm hearing, from what I know

1 when I went to Columbus, Ohio, that the CEO of Diebold told
2 George Bush and Dick Cheney that he was going to deliver
3 Ohio to Bush, and I don't think that's fair. That isn't
4 democracy in this country, and I would like to say keep
5 democracy in California and keep Diebold out of California.

6 Thank you.

7 (Applause.)

8 MS. DELGADO: Hi there, my name is Deanna Delgado.

9 I wasn't called earlier, but I did fill out a card.

10 CHAIRPERSON WOOD: I apologize.

11 MS. DELGADO: That's okay.

12 I want to thank you for this forum and I'm not an
13 expert, but any expert can see that obviously there's a
14 problem here. And I've never spoke before a forum like
15 this, but I couldn't take another day of this and I think it
16 was my duty to come out today along with the rest of these
17 people to stand up for our democracy. And obviously to
18 Bruce McPherson who it was not a big enough of a commitment
19 for our democracy for him to show up today.

20 PANEL MEMBER DANIELS-MEADE: He's not supposed to
21 be here.

22 MS. DELGADO: Well, something as big as this, he
23 should have been here, I'm sorry.

24 (Applause.)

25 MS DELGADO: That to me is very telling of the

1 situation.

2 Actually there is a couple things I wanted to say.
3 Recently I used an ATM machine, it was a Diebold ATM
4 machine, and I got a receipt, believe it or not. So I think
5 that is discerning and telling that if they want to give a
6 receipt and the institution is large enough and it means
7 enough to them, they will give you a receipt. So I think
8 you should keep that in mind when you're considering them.

9 And I see this continuous rush for everybody to
10 get done and get finished. Well, you know, democracy cannot
11 be rushed and the people in Ohio stood in line for 10 to 12
12 hours, they wanted that line to rush along a lot faster than
13 it did, but they stood out and they waited for it. So I
14 would appreciate that same courtesy to our people who waited
15 all day, and I'm saying for 10 and 12 hours, to make sure
16 that we all be heard and that we get some clear
17 understanding about Diebold's number one goal. I mean
18 Diebold is fast and truly becoming the Wal-Mart of the
19 voting industry.

20 (Applause.)

21 MS. DELGADO: You know, I think it's also very
22 telling that after lunch Diebold isn't here. Well, there
23 may be one or two, but the people who are standing here and
24 saying they want our confidence and they want us to have the
25 confidence to vote with them, but they don't have enough

1 courtesy to stand here and finish with the rest of us.

2 One other thing, thank you to the cameraman, the
3 one cameraman that stayed to show this media coverage. And
4 I hope that you do this every day, continue to do it,
5 because we need this, we need you.

6 (Applause.)

7 CHAIRPERSON WOOD: Gail Sredanovic.

8 MS. SREDANOVIC: Thanks. My name is Gail
9 Sredanovic, I live in Menlo Park.

10 And about ten years ago as the result of an
11 automobile accident I became disabled. And I'm better now
12 because of artificial joints, but I'm still disabled. And I
13 have spent a lot of time, not just once a year, but on a
14 daily basis outdoors like a puppy waiting for somebody to
15 open the door because it wasn't ADA compliant. And if you
16 would ask me would I give up the sanctity of the vote and
17 give up the security of democracy to have all those doors
18 pop open for me, I would say no. It's a no-brainer.

19 (Applause.)

20 MS. SREDANOVIC: You folks are here more or less
21 at democracy's crisis. I mean it is not an exaggeration to
22 say that as California goes, the rest of the nation is
23 likely to go. And if we lose the security of our vote, you
24 know, it's all over. Democracy is over.

25 And I just implore you to rise above your partisan

1 comments and consider that most of us in this room, many
2 people who have left, have been working on this issue since
3 well before the election. I'm not techie, but I do have a
4 computer, and my son's a techie, and I could tell from the
5 get-go as soon as the issue was raised and I heard the
6 arguments that this was really, really insecure and really,
7 really dangerous, and it's a very deep and very profound and
8 very widespread problem. And, you know, it's not an
9 exaggeration to say that the world is counting on you, you
10 folks here today, it's very important.

11 (Applause.)

12 MS. SREDANOVIC: And I have had a lot of medical
13 adventures in the last ten years. I'm living with a
14 cautionary principle, which is if you're not sure it's safe,
15 don't do it.

16 CHAIRPERSON WOOD: Thank you, your time is up.

17 MS. SREDANVIC: Imagine if you were the FDA and
18 you had heard this much scientific evidence against Vioxx.
19 Do you wonder why all those physicians in their white lab
20 coats didn't disclose that they were being paid a fat fee to
21 sell people like me Vioxx. Fortunately, I read the package
22 insert and I didn't take very much of it. But you have to
23 really resist the pressures on you and set your personal
24 feelings aside, any partisan loyalty you have to set aside
25 and we're counting on you.

1 CHAIRPERSON WOOD: Thank you, ma'am.

2 MS. SREDANOVIC: Thank you for your time.

3 (Applause.)

4 CHAIRPERSON WOOD: Charlene Woodcock and Jim
5 Woodward. Sandra Yolles, and Dagmar Zakim, please.

6 Come on down, please.

7 MS. ZAKIM: I was the last one called.

8 CHAIRPERSON WOOD: I'm sorry, ma'am, you have to
9 state your name.

10 MS. ZAKIM: My name is Dagmar Zakim, I'm from
11 Orange County.

12 I wish to address the cost aspect of this, the
13 fiduciary responsibility to the taxpayer. And so
14 essentially nearly four hundred to five hundred million
15 dollars past budget, primarily on equipment which has not
16 been shown to meet responsible election integrity standards.
17 It is likely just merely a down payment of the true cost.
18 The rough cost of the DRE machines is about a thousand
19 dollars per machine. In addition, there is the cost of
20 special DRE technicians for one to two weeks during election
21 and post-election. Each technician's salary would be about
22 \$1,500 per day for 12 days. Then there's the maintenance
23 contract which ranges about \$93 per machine for two years,
24 plus there's the cost of printers costing in the range of
25 300 to \$1,200 per printer machine. The only portion of

1 these costs covered by HAVA would be the DRE machines
2 themselves, the rest of the funds would have to be funded by
3 state, county or municipality funds.

4 By April 13th, 2005, the New Yorkers for Verified
5 Voting released an acquisition analysis comparing the
6 purchases of DRE optical scan systems to all trends in New
7 York showing the analysis, and I quote, the DRE cost for New
8 York state for electronic voting machines, \$230,473,000.

9 For paper ballots and precinct optical scans it was
10 \$114,423,000. So the total cost of using the optical scan
11 system which we have in the county, we have in storage,
12 actually is 116,049,360. So that's double the cost itself.
13 In addition, many of these DREs are only guaranteed for five
14 years, require expensive maintenance contracts, extra poll
15 workers and training, and in some instances require
16 personnel to read the coiled up paper trails.

17 CHAIRPERSON WOOD: Thank you, ma'am, your two
18 minutes are up.

19 MS. ZAKIM: Okay. So I just recommend that the
20 state of California not spend millions of dollars of the
21 HAVA budget to buy these expensive machines.

22 (Applause.)

23 CHAIRPERSON WOOD: Oh, I'm sorry, ma'am, would you
24 state your name, please.

25 MS. YOLLES: My name is Sandra Yolles. I also

1 have never spoken in a forum like this. Like many who have
2 spoken already, I have real strong concerns about trade
3 secrets, proprietary software, redactions in technical
4 reports, and the democratic elections.

5 I spent some time preparing for this hearing.
6 Beginning last month when the hearing was canceled, I
7 researched the Diebold company and I put many articles and
8 scientific reports together in a research book which I
9 modestly called a Diebold reader. The selections document
10 many failures of voting equipment in tests and in practice
11 since the inception of the company.

12 I used to work for a university publisher for 15
13 years and I guess that influenced the way I thought of it.
14 So I printed out in a low tech manual these articles and
15 scientific reports and presented seven copies of this reader
16 to the committee here a week ago today.

17 (Applause.)

18 MS. YOLLES: I would like to append that reader
19 with the famous study of the Diebold electronic voting
20 systems published last year and some of the rebuttals and
21 responses that followed its publication. The authors are
22 computer engineers and the study appeared as a John Hopkins
23 University technical report.

24 The authors' conclusion states, the model where
25 individual vendors run proprietary code to run our elections

1 appears to be unreliable, and if we do not change the
2 practice of designing our voting systems, we will have no
3 confidence that our election results reflect the will of the
4 electorate. We owe it to ourselves to preserve the bedrock
5 of our democracy.

6 To me that means that the voting, the tabulating,
7 and every phase of the process must be simple, accessible,
8 secure, transparent, inexpensive, and believable. We do not
9 want elections run by expensive technicians and consultants
10 that little old ladies like us cannot understand, let alone
11 operate properly.

12 There are inexpensive and simple alternatives out
13 here and you owe it to our democracy to become familiar with
14 those and refuse to sell our country out to the highest and
15 most well-connected bidder.

16 CHAIRPERSON WOOD: Thank you, ma'am.

17 (Applause.)

18 CHAIRPERSON WOOD: Again, just a housekeeping
19 item. We'll take a break until 4:00 o'clock, which would be
20 approximately 10 minutes from now. We will then take up
21 Item Number 2 on the agenda. We will go as far as we can at
22 that point. Bear in mind this is a state building and we
23 will have to conclude today's portion of the agenda at 4:30,
24 If the agenda items as far as Number 2 and Number 3 and
25 Number 4 are still open, then we will return tomorrow at

1 10:00 o'clock.

2 (Thereupon a short recess was taken.)

3 CHAIRPERSON WOOD: It's 4:00 o'clock. Let's start
4 on Agenda Item Number 2 on ES&S. And we have several folks
5 from out of town who will not be able to be back here
6 tomorrow, and if at all possible I'd like to see if we
7 couldn't begin with public comment on the ES&S item today to
8 give them an opportunity to make their comments.

9 So if we could please get started. Could
10 everybody please take their seats.

11 All right. We're going to begin on Agenda Item
12 Number 2 with the staff report, please.

13 Mr. McDannold.

14 MR. MCDANNOLD: Good afternoon. The second system
15 that's been brought forward for certification today has been
16 brought by Election Systems & Software. It is comprised of
17 several components, one of which is something new that has
18 not been seen in California before, and that is the AutoMARK
19 Voter Assist Terminal. The AutoMARK Voter Assist Terminal
20 is perhaps a hybrid machine that features a DRE-style
21 interface, but actually just prints or marks ballots. It
22 does not store, it does not tabulate, it does not count
23 ballots. It's just a printer with an interface primarily
24 with the accessibility community.

25 As such, it has a touchscreen interface that

1 prohibits overvoting. It provides a warning to the user if
2 they undervote a contest, and presents a summary screen at
3 the conclusion of the ballot to give the voter an
4 opportunity to review their choices and correct them if
5 necessary.

6 It starts when a voter takes a printed ballot
7 that's blank, inserts it into the AutoMARK. The system
8 accepts the ballot, scans the ballot, determines what the
9 ballot style is and the appropriate contests and candidates
10 and then displays on the touchscreen, just as a DRE would,
11 what the first contest is, the vote choices, and as the
12 voter selects it advances contest by contest. Once the
13 voter concludes and finalizes their ballot and prints the
14 ballot that was inserted, marks it to be pulled out, and
15 then inserted into some kind of a tabulation device to read
16 the ballot.

17 The AutoMARK is aimed primarily, I think with the
18 HAVA requirements in mind, aimed at the accessibility
19 community. It supports multiple languages. It provides
20 audio instruction for voting in multiple languages. It's
21 programmed accordingly for the blind and the screen can be
22 blank. The DRE screen LCD screen can also be set to high
23 contrast mode with enlarged font for those with visual
24 acuity problems.

25 And, finally, the AutoMARK offers a binary

1 interface for voting either with a foot pedal or if someone
2 has a sip-and-puff device that can be plugged into the
3 machine for voting as well.

4 Finally, the voter who has a marked ballot that's
5 already been voted or has just pulled one out can reinsert a
6 marked ballot into the AutoMARK and the device will read
7 back or display on the screen what their vote choices are.
8 So it's a way to confirm the vote choices.

9 The second component of this system is the
10 AutoMARK information management system, otherwise called
11 AIMS. This is a PC-based software program that is used to
12 program and configure the AutoMARK. Programming the
13 AutoMARK in AIMS can begin either by exporting the ballot
14 layout from the ES&S election management system and bring
15 that in, import it into AIMS and then finish the
16 programming, or the users can use AIMS exclusively to
17 program and layout the ballot design for the AutoMARK.

18 The AIMS is also a new system to California, as is
19 the AutoMARK. The ballots and the components in this system
20 all are previously certified here in California. And those
21 are, first, the Model 100 precinct scanner, Version 5.0.0.0.
22 This is a precinct optical scan reader, precinct-based, that
23 accepts ballots, again in any orientation. The reader can
24 be programmed to reject overvotes. It's programmed with a
25 PCMCIA card that can be taken, this program in Unity, the

1 programming exported out on the PCMCIA card and then that's
2 inserted into the Model 100 to tabulate vote results. And
3 then at the end of the day to export them back to Unity for
4 tabulation at the central server.

5 The Model 100 also features a built-in printer
6 that can be used to generate zero reports before the
7 election and then vote results and reports at the conclusion
8 of the election. The component was certified in September
9 2004.

10 The next component is the Model 550 central
11 scanner, Version 2.1.1.0. This is a high-speed central
12 optical scanner for tabulation of absentee ballots at the
13 central location of the county or the jurisdiction. This
14 central scanner is actually programmed with an EPROM chip.
15 The EPROM chip would be programmed from Unity and then
16 inserted into the Model 550 to program it for the election
17 and to read the ballots. At the conclusion of reading the
18 ballots, the results are saved back to a floppy disk and
19 then that floppy disk is used to transfer the vote results
20 back to Unity, the election management system for
21 tabulation.

22 The Model 550 central scanner has two attached
23 printers, one is for producing zero reports and closing
24 reports, the other one is for generating audit reports used
25 for the system. This component of the system, the Model

1 550, was certified in California in September 2004 also.

2 The next scanner in the system is the Model 650
3 central scanner. This is also a central scanner that would
4 be used at the jurisdiction office or a remote central
5 location for tabulating absentee ballots. It differs from
6 the Model 550 in that it's programmed with a Zip disk
7 instead of an EPROM chip. And then at the conclusion of the
8 election, the results are saved back to the Zip disk for
9 export and transfer over to Unity, the election management
10 system. It also has two attached printers, one for
11 generating zero reports and close reports, and the other one
12 for printing an audit log. This component was also
13 certified with this version of firmware in September 2004.

14 The final component of this system that's been
15 proposed is the Unity Election Management System 2.4.3.
16 This is actually a package of multiple software components
17 that are used to define the election, create ballot
18 definitions, program the various scanners or the appropriate
19 media, and then finally at the conclusion of an election, to
20 import, compile, tabulate, and report the vote results.
21 Finally, this component was also certified in this same
22 version of firmware in September 2004.

23 In terms of federal testing, the AIMS software was
24 tested by Ciber and tested to the 2002 federal voting
25 systems standards. We have a copy of their report and it's

1 been provided to all of you in your binders. The AutoMARK
2 voter assist terminal was tested in conjunction with the
3 system by Systest Labs and that was tested as well
4 successfully to the 2002 federal voting systems standards.
5 And you have a copy of that report, which is dated June 1st,
6 2005, in your binders as well.

7 The NASED qualification numbers have not yet been
8 issued on this system, but it is anticipated when they are
9 the system will be qualified to the 1990 voting systems
10 standards, because not all components of the system again
11 have been tested and qualified to the 2002 federal
12 standards.

13 We conducted the state testing of the AutoMARK in
14 the system from May 18th to May 27th in Omaha, in
15 conjunction with the state consultant Steve Freeman. During
16 that test, we ran ballots through and tested the AutoMARK
17 and the rest of the system for a California primary
18 election, as well as our standard general election.

19 We did a complete functional testing of the
20 AutoMARK features and AIMS as they have been identified, and
21 then we tested integration of the AutoMARK and AIMS with the
22 rest of the system as presented, the Model 100, 550, 650,
23 and the Unity Election Management System.

24 On June 1st, we ran a demonstration here in the
25 Secretary of State's office where members of the Technical

1 Advisory Board, the accessibility community, as well as
2 county election officials and members of the Panel were
3 invited to attend to see a demonstration of the machine and
4 use the equipment and speak with the vendor representatives.

5 In terms of observations from our testing, the
6 first group I would like to note that we found were not
7 significant enough to affect we believe certification of
8 this system, but wanted to note them and something that
9 users should be aware of considering this system. I would
10 characterize our view of this system as this is a first-
11 generation technology and we would anticipate down the road
12 that many of these would be addressed and improved.

13 The first finding noted by staff and the technical
14 consultant is that the AutoMARK is a heavy piece of
15 equipment. It weighs 48 pounds. The roll-around case
16 that's been suggested by the vendor to go with it is another
17 additional 26 pounds. That does present some challenges
18 perhaps for poll workers to move, transport, lift the
19 equipment. It suggests some kind of a sturdy base for it
20 would be necessary to support it.

21 I would say also that we found the AutoMARK to be
22 relatively slow to use. There is an extended period of time
23 from when the ballot is inserted to be scanned, read, and
24 interpreted before the screen is displayed. As well at the
25 conclusion of voting, it seemed to take a lot longer than

1 expected time to print that ballot.

2 The speed suggests that it would not be something
3 that would lend itself for average voting by all voters in a
4 polling place, but primarily just for the few voters that I
5 guess it's directed to, the accessibility community, the
6 people with disabilities.

7 We found at times that on the touchscreen also
8 there was a lag in the responsiveness that, if we would
9 touch voting choices particularly comes to mind, that the
10 absentee or the write-in ballot screen, that it would not
11 seem to register, there wouldn't be an hour glass that most
12 of us are used to tell us the machine was still thinking.
13 And then when it finally caught up, instead of the W that
14 you had typed, you would have four or five Ws on the screen
15 and then you would have to backspace. Relatively minor
16 inconvenience that we would expect improved in the future.

17 We were also able to induce, staff was able to
18 induce, as well as the technical consultant, by providing
19 rapid instruction, either hitting the keyboard repeatedly or
20 the foot pedal, we were able to generate an error that would
21 lock up the machine and needed to be rebooted. Because it's
22 a marked ballot, the ballot would be blank, of course. That
23 would be spit out of the machine and would require being re-
24 fed in and the voter would have to start again. Again, that
25 was only with rapid selection of choices.

1 One other thing that was noted by the technical
2 consultants was that in terms of the capability that
3 AutoMARK advertises, exporting the ballot layout from the
4 Unity Election Management System and importing it into AIMS
5 to do the programming, he found that there were some issues
6 when dealing with multiple language ballots or multiple
7 languages on the same ballot, as some of our jurisdictions
8 do, that required some funny little manual editing, and he
9 suggested would be more convenient perhaps to just do that
10 entirely within the AIMS system rather than trying to import
11 it in those cases. His coverage of that is in, of course,
12 the technical report that's been provided to you.

13 Also, I wanted to point out that as the AutoMARK
14 was demonstrated for our testing in the open house here,
15 there was not a privacy screen to ensure the privacy of any
16 voter using the equipment. Although the vendor did identify
17 they have one in development, we have not seen it and been
18 able to evaluate it.

19 The security consultant also noted that the
20 AutoMARK, let me explain, is programmed by a compact flash
21 card, it is then inserted in the AutoMARK to program and
22 configure it. He noted that while there is a lock on the
23 compartment that that flash card is inserted, there is no
24 guarantee that that lock is uniquely keyed and he recommends
25 that that lock also be sealed with a tamperproof seal.

1 I would also like to note that while we were
2 testing the AutoMARK in Omaha, the state of Oregon was also
3 concurrently testing at the same time in the room the
4 precinct scanners for their entirely mail ballot election
5 process. At one point in their testing, they had a stack of
6 ballots that they had hand marked with perhaps some
7 borderline marks or not the nice clean bubble filled in
8 ovals that we were used to seeing with the AutoMARK. And
9 during one of the tests when they ran those through, they
10 got some erratic results and were not getting the results
11 that were expected. ES&S addressed this by bringing
12 technicians in and they recalibrated the equipment,
13 eventually the ballots were reread correctly.

14 Out of that, we had a discussion with ES&S staff
15 and the technical consultant, the Oregon representative, and
16 out of that discussion, the vendor has agreed that it would
17 be appropriate and they would provide for election officials
18 using this system some form of a calibration test ballot
19 that could be used for all users of the system prior to an
20 election to check the calibration and verify that it was
21 correctly set up and would read properly for an election.

22 In terms of the accessibility components of the
23 AutoMARK, if I can dive into a little more detail, the
24 AutoMARK supports all of the languages required in
25 California jurisdictions on its CRE interface. Not only

1 does it support it in terms of the touchscreen, but also in
2 the audio component.

3 In terms of the audio component, it supports
4 natively five languages in a synthesized speech, English,
5 Spanish, Traditional Chinese, Korean, and Japanese. If the
6 jurisdiction using the AutoMARK uses these languages, there
7 is a tempo control for the audio instruction that allows the
8 users to speed up or slow down the audio instruction to
9 their own pace, and it does a pretty good job of adjusting.

10 For any other languages that the jurisdiction
11 would want to use on the system, those languages would need
12 to be recorded and programmed as WAV files. The cost of the
13 WAV files is that the tempo control, while still functional,
14 will distort the language.

15 For low visual acuity users, as I mentioned
16 before, it does feature a high contrast LCD screen, as well
17 as enlarged fonts. Blind voters have the ability to take
18 the audio instruction again in their native language. The
19 equipment, the AutoMARK, is also marked with braille on all
20 the keypads and the port where the ballot is inserted. And
21 finally, the screen can be blank to ensure privacy of a
22 blind voter.

23 For those with physical disabilities, as I
24 mentioned before, there is a binary operation mode that we
25 demonstrated on a foot pedal device without problem to test

1 voting as one of those voters would. The same interface is
2 available for sip-and-puff. We did not have a sip-and-puff
3 device available, and the AutoMARK's presumption is that any
4 voter would bring their own.

5 We did note that when a ballot is rejected from
6 the AutoMARK, it takes a significant time to pull the ballot
7 free of the machine. So again, the voters with manual
8 dexterity issues or physical disabilities perhaps would need
9 some kind of assistance to remove the ballot and perhaps to
10 remove the ballot and transfer it or translate it over to
11 the precinct scanner to actually have the ballot read. For
12 this reason, staff would recommend that the jurisdictions
13 using the AutoMARK would be required to provide a secrecy
14 sleeve, so that in transitioning the ballot, and probably
15 some kind of direction and procedures, so that in helping
16 and assisting a voter with manual dexterity or physical
17 disability issues, the privacy and the secrecy of the ballot
18 can be protected.

19 In conclusion, staff would like to recommend the
20 certification of this system with the following conditions:
21 Proof of the federal qualification must be received by the
22 Secretary of State no later than June 30th, 2005. That the
23 vendor is required, as they agreed, to provide all users of
24 this system with test ballots and appropriate procedures to
25 check and assess the calibration of the central tabulation

1 scanner prior to each election.

2 And then, finally, the submission of final use
3 procedures acceptable to the Secretary of State that require
4 the following: Use of a privacy screen and privacy sleeve
5 with the AutoMARK. The proscribed procedures for assisting
6 voters using the AutoMARK that ensure privacy and
7 confidentiality of a ballot. That require a tamperproof
8 seal over the AutoMARK compact flash compartment during an
9 election. And, finally, that specified logic and accuracy
10 testing for each ballot style on each unit, that at a
11 minimum requires test votes imprinting for each ballot
12 position and test the prevention of overvoting for each
13 contest.

14 Thank you.

15 CHAIRPERSON WOOD: Thank you.

16 Are there any questions from the Panel for Mr.
17 McDannold?

18 What I would like to do at this point --

19 PANEL MEMBER GULLAHORN: I have a quick question
20 actually.

21 Just when you were dealing with the issue of the
22 ballots being hard to remove from the system, did staff find
23 any concern regarding damage to ballots at all?

24 MR. MCDANNOLD: No. We saw no damage to ballots.

25 And I should echo that also those same concerns with

1 removing it were echoed by the people that were present at
2 our open house.

3 PANEL MEMBER GULLAHORN: Thank you.

4 CHAIRPERSON WOOD: Any other questions from the
5 Panel?

6 PANEL MEMBER DANIELS-MEADE: At the open house no
7 one came with sip-and-puff either to try it?

8 MR. MCDANNOLD: No.

9 PANEL MEMBER DANIELS-MEADE: Okay. So we have not
10 seen a demonstration?

11 MR. MCDANNOLD: We have not seen it demonstrated,
12 although the logic should be identical, it's a binary
13 device.

14 PANEL MEMBER DANIELS-MEADE: Yes. I saw that in
15 the report.

16 CHAIRPERSON WOOD: All right. Thank you.

17 Because of our time, what I would like to do is
18 take slightly out of order from Item 1 and accommodate at
19 least one, I hope, speaker who would have spoken normally
20 after we had heard from the vendor, because I anticipate the
21 vendor will have to return tomorrow in any event.

22 So, as I understand it, I think we have one
23 expert, Dr. Keller.

24 DR. KELLER: Thank you very much, Mr. Chairman,
25 Commissioners, staff, public. I appreciate the opportunity

1 to speak at this time and I will not speak for too long.

2 One thing that is really good about the AutoMARK
3 system is the idea of using paper ballots and that a paper
4 ballot is counted. And I think that's a very good
5 innovation of this environment. And the notion of making
6 the paper ballot accessible for the test voting I think is
7 critical.

8 HAVA requires that there be at least one
9 accessible voting station at each precinct and this device
10 satisfies that requirement along with having optical scan
11 ballots that can be filled out by able sighted voters. And
12 I think that's an important innovation here. And that also
13 could reduce the overall costs to implementation because you
14 wouldn't have to have all the multiple DREs at every
15 precinct.

16 One of the things here, as was mentioned in some
17 of the earlier comments in the comments in Item 1, the
18 material for the tabulation is nonetheless proprietary
19 closed source. And from my point of view, the consideration
20 is that that is somewhat less of a risk for the AutoMARK
21 itself because the result is a paper ballot, but the
22 tabulation system, that is a potential risk, and I have
23 written papers on some of the issues involved and some of
24 the risk factors here.

25 What we would like to do, and I am a researcher at

1 the University of California at Santa Cruz, and I would look
2 forward to the opportunity to discuss with the Voting
3 Systems and Procedures Panel and the Secretary of State to
4 do a research and development project as allowed through the
5 HAVA funding to create an open source system that could be
6 used by any vendors, existing vendors or new vendors, that
7 would be compliant with standard 1622 that is evolving on
8 interoperability and would allow the counties to have some
9 competition in terms of follow-on support and the sort of
10 mix and match style of acquisition.

11 In this regard, what we have is the source would
12 go through a certification process. We would be happy to
13 work with any of the existing vendors. We could have new
14 vendors that could come in that could build either reference
15 hardware or their own hardware and could use the software
16 that we create which would be open to public inspection and
17 made available through this approach.

18 And I appreciate the opportunity to come back in
19 the near future and discuss this in detail so that we could
20 work out what would be a reasonable statement of work and
21 how we could have UC, as was mentioned, the great resource
22 of the University of California in the interests of voting
23 systems for California.

24 Thank you very much.

25 (Applause.)

1 CHAIRPERSON WOOD: We have a member of the public
2 who cannot be here tomorrow, and we will obviously be going
3 into tomorrow. So I think again I would like to take Eugene
4 Lee out of order, please. I understand that he cannot be
5 here and he would like to comment on Item Number 2.

6 MR. LEE: Members of the Panel, thank you.

7 My name is Eugene Lee and I'm with the Asian
8 Pacific American Legal Center in Los Angeles. I am a staff
9 attorney in the Voting Rights Project there.

10 APALC provides legal services to and advocates for
11 civil rights on behalf of Asian Pacific Americans in
12 Southern California.

13 In the Voting Rights Project, we seek to work
14 towards policies and practices that ensure that Asian
15 American voters can exercise their right to vote.

16 I wanted to provide comments on the ES&S AutoMARK
17 terminal which I had the opportunity to observe on June 1st,
18 as well as June 13th.

19 To provide some background, in California the API
20 represents something like 40 percent of the California
21 population, and in some areas, such as in Los Angeles
22 County, there are some communities which are a majority of
23 API. Overall in California, over a third of the API
24 population is limited English proficient and it's on this
25 that I wanted to talk about the AutoMARK.

1 We believe that the AutoMARK's touchscreen
2 interface would be very easy to use by API voters, including
3 voters for whom English is not their first language.

4 I actually wanted to provide a contrast to the
5 AutoMARK device, so I brought along with me a demonstration
6 device of the Ink-A-Vote vote recorder that is currently
7 being used in Los Angeles County. So I'm just going to hold
8 it up. So what a voter does is have to stick -- I'm sure
9 you have all seen this, but I just wanted to provide a
10 visual image of it. So a voter sticks their ballot into the
11 machine, assuming they can do that. And if the voter is
12 limited English proficient, well the problems you encounter
13 is that the pages of the sample ballot pages are in English
14 only, so what a voter has to try to do if they are limited
15 English proficient is to line the text of their translated
16 sample ballot, assuming that the jurisdiction actually has
17 one there, they have to try to line up the pages of the
18 translated ballot with the pages in the actual recorder and
19 then try to mark the appropriate bubbles.

20 In contrast, the AutoMARK's touchscreen interface
21 can actually show the text of the candidate races and the
22 ballot measures in the voter's native language. It's a lot
23 easier to use because the voter can look at the language on
24 the screen and make their selection right on the screen.

25 I mentioned that some poll sites do not often have

1 translated ballots. Several jurisdictions in California,
2 including Los Angeles County, are required by the law to
3 provide translated materials. From APALC's experience, we
4 know that this is often not the case, and in the November
5 2004 election, we conducted poll monitoring at 88 poll sites
6 and found that over one-third either did not have their
7 translated sample ballots or failed to display them in a
8 manner that was accessible and visible to voters.

9 I also wanted to talk about voter attitudes
10 towards touchscreen voting. LA County had early voting
11 available at poll sites throughout LA County, including a
12 site in Monterrey Park, which is I guess a suburb of Los
13 Angeles that is a majority API. APALC conducted an exit
14 poll over two days at this poll site and found that overall
15 about 79 percent of those voters actually preferred
16 touchscreen voting over punch card voting and Ink-A-Vote
17 voting.

18 So I wanted to offer that as an indication that
19 there are some voters who actually prefer touchscreen voting
20 and find it very easy to use because of their limited
21 English proficiency.

22 Thank you.

23 CHAIRPERSON WOOD: Thank you, Mr. Lee.

24 (Applause.)

25 CHAIRPERSON WOOD: With that, we will conclude

1 today's session of this meeting of the Voting Systems Panel.

2 We will reconvene in this room tomorrow at 10:00
3 o'clock to continue on Item 2 and then we will proceed
4 through Item 2 to the conclusion of the agenda.

5 MS. SMITH: Did they cancel the other meeting for
6 10:00 o'clock tomorrow?

7 CHAIRPERSON WOOD: The Voting Modernization Board?

8 MS. SMITH: Yes.

9 CHAIRPERSON WOOD: No. That meeting will shift
10 over probably to the multipurpose room just across the lobby
11 here. There will be signs to show you where it is.

12 All right. Thank you all very much.

13 (Thereupon the meeting of the Voting
14 Systems and Procedures Panel was
15 concluded at 4:30 p.m. on June 16,
16 2005.)

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1 CERTIFICATE OF SHORTHAND REPORTER

2 I, MICHAEL J. MAC IVER, a Shorthand Reporter, do
3 hereby certify that I am a disinterested person herein; that
4 I reported the foregoing Voting Systems and Procedures Panel
5 proceedings in shorthand writing; that I thereafter caused
6 my shorthand writing to be transcribed into typewriting.

7 I further certify that I am not of counsel or
8 attorney for any of the parties to said Voting Systems and
9 Procedures Panel proceedings, or in any way interested in
10 the outcome of said Voting Systems and Procedures Panel
11 proceedings.

12 IN WITNESS WHEREOF, I have hereunto set my hand
13 this 18th day of June 2005.

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19 Michael J. Mac Iver
20 Shorthand Reporter
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